

YUKON LIQUOR BOARD

POLICY MANUAL

YUKON LIQUOR BOARD POLICY MANUAL

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BARRING

TAB 1

As stated in the *Liquor Regulations* subsection 9(2) and 9(3):

A person may be barred for being in an intoxicated condition, being riotous, noisy, quarrelsome, violent, disorderly, profane, or acting in a manner contravening a Federal Statute, Yukon Territorial Act or Municipal By-Law.

As stated in the *Liquor Regulations* paragraph 9(3)(c):

A person who has been forbidden entry to more than one licensed premises may be prohibited from entering any other licensed premises by the licensee or person in charge.

APPLICATION

The following are procedures for barring persons from a licensed premises:

1. The Licensee will advise the person orally that they are barred and for how long, giving reasons, and advise them that they can appeal the barring to the YLC Board of Directors.
2. The Licensee will follow up with written communication of the above; either hand delivered or by registered mail, within thirty (30) days.
3. The Licensee will advise, in writing, the local RCMP and Yukon Liquor Corporation.

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B.A.R.S. PROGRAM

TAB 2

It is recommended that those people who are volunteering for special events under a Special Occasion Permit have a B.A.R.S. training certificate. The B.A.R.S. program is encouraged for participants to promote social responsibility of alcohol consumption.

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CHANGE TO EXISTING PREMISES

TAB 3

A new licence application and public notice may be required where a licensee is proposing to make changes to their existing licensed premises.

APPLICATION

As provided for in legislation, if there is any change to an existing licensed premises, from the original application, a new application and public notice may be required.

A new application and public notice is required if the changes the applicant is proposing involves a material difference from the original application. For example, the applicant chooses to change the size, use, or nature of the business/premises.

This would include the addition of decks, patios, or other areas to the licensed area; the addition of various entertainment, sporting or other activities available to patrons; a change of licence category; all or part of the premises changing between a food primary and a liquor primary at a specific time of day or on specific days; or an addition of non-conventional activities in relation to the licence type, etc.

This would not include a change in manager(s), removal or addition of an approved conventional game or entertainment area, e.g. pool table, big screen TV, bandstand, new service counter or service counter relocation, or cosmetic change (such as painting walls, replacing carpet or other flooring, etc.) However, for these changes, the licensee is required to notify the Yukon Liquor Corporation in writing.

It is recommended that the applicant contact the Yukon Liquor Corporation well in advance of any changes to the existing licensed premises so that the Corporation can advise the applicant of any relevant requirements.

The application process with public notice normally requires a minimum of six weeks following receipt of a complete application package. The decision to grant, deny, or approve with conditions rests with the Yukon Liquor Board.

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FOOD-PRIMARY AND LIQUOR-PRIMARY PREMISES

TAB 4

According to the *Liquor Regulations* subsection 14.1, in considering whether a licensed premises is food primary or liquor primary, the Board may consider any or all of the following criteria:

- (a) the kitchen equipment provided on the premises;
- (b) the furnishing and lighting of the premises;
- (c) the menu;
- (d) the type and hours of entertainment and games offered on the premises;
- (e) the advertising that has been done or is proposed in respect of the premises;
- (f) the hours of operation of the premises;
- (g) the financial records of the premises;
- (h) the ratio of receipts from food sales to receipts from liquor sales in the premises;
- (i) any other relevant consideration that may assist in the determination.

The Board will consider applications for a liquor primary licence and a food primary licence where

- (a) the premises are to be operated as one type of premises for any time up to the maximum permitted on any day or days of the week, and the premises are to be operated as the other type of premises
 - (i) for any other part of that day or those days, or
 - (ii) on any other day of the week; or
- b) part of any room in the premises is to be operated as one type of premises and another part is to be operated simultaneously as the other type of premises.

An application for dual licensing must specify the applicant's proposals for operating the premises under each licence, including:

- (a) the days and hours of operation proposed for each;
- (b) where applicable, the allocation of space within the premises to operate under one licence or the other;
- (c) the arrangements or procedures for excluding persons under the age of 19 years from the premises being operated under the liquor primary licence; and
- (d) such further information as the Corporation or Board may require.

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The following conditions are to be considered as Board guidelines by applicants for food primary and liquor primary licences:

- Where the licensed area(s) are part of another business, there must be a clear permanent physical separation between the licensed area(s) and any other business area(s), which is adequate to control access to the licensed area(s). Examples of this separation include a solid wall, a medium-height pony wall, or a decorative trellis.
- Each licensed premises must have the capacity to seat a minimum of 20 customers at one time indoors.

As required by the *Liquor Regulations* 14.2(1), liquor must not be served in a food primary premises unless the premises are open for service of a varied selection of food items, including both appetizers and main courses or the equivalent. The Board will not allow a food primary premise to operate as a liquor primary premise, and will not tolerate excess serving of liquor.

As allowed under the *Liquor Act* 90(2), in a food primary premises, minors may consume liquor provided by or with the consent of a parent, grandparent, or legal guardian while accompanied by that parent, grandparent, or legal guardian. However, servers may only ask the adult if they wish to purchase a drink for the minor, and may not ask the minor directly.

It is the responsibility of the licensee to ensure all employees are properly instructed in the rules governing the serving of food and liquor, and in the principles of responsible service.

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FIT PERSON

TAB 5

Guidelines

Applicants for liquor licenses, and named managers, must demonstrate that they are of “good character and reputation” (*Yukon Liquor Regulations*) and are a “fit person” (*Yukon Liquor Act*) to operate and/or manage the premises.

This is important because:

- liquor is a controlled product;
- liquor can create significant risks if abused; and,
- people under the influence of liquor are more vulnerable to theft and assault, and are more likely to make poor choices.

Liquor applicants and their named managers must demonstrate their ability, competence, and experience to operate a well-controlled licensed premises, in accordance with relevant legislation, in a manner that recognizes the responsibilities associated with liquor sales and consumption.

Process

All applicants for liquor licenses and named managers must complete the *Personal History Report* and request a criminal record check from the RCMP. The applicant or named manager must provide the results of the criminal record check to the Yukon Liquor Corporation.

Where the applicant or named manager:

- has been convicted of a relevant offence under the *Criminal Code (Canada)*, or the *Liquor Act* or *Liquor Regulations*, and the conviction took place within a period of five years before the date of application; or,
- is the subject of an outstanding warrant or an outstanding police matter of an indictable nature; or,
- was the subject of bankruptcy proceedings within a period of five years before the date of application; or,
- previously held a licence or managed a licensed premises, and the record of operation during the currency of that licence was unsatisfactory;

then the Yukon Liquor Corporation will prepare a special report for the Board, and the Board may consider the applicant or named manager not suitable.

Where, during the term of a licence, the Yukon Liquor Corporation has reasonable grounds to believe a licensee or manager is the subject of any of the above-mentioned, then the Yukon Liquor Corporation will prepare a special report for the Board, and the Board may consider the applicant or named manager not suitable. In the case of a corporation which is an applicant, the *Personal History Report* and criminal record check is to be completed by the officers of the corporation.

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LICENCE RENEWAL

TAB 6

Where a licence is approved at a point in a year which makes it impossible for the licence to operate for three months in the licensing year, then that licensee will be deemed to have operated for three months in that year.

APPLICATION

This will not reduce the three-month operation requirement for the next and subsequent years as set out under subsection 35 (9) of the *Liquor Act* which states “Every licence for the sale of liquor shall be held to be a licence and valid only so long as the premises named therein is operational for at least three months of the licence year.”

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NEW YEAR'S EVE

TAB 7

Licensees are authorized to remain open on New Year's Eve/Day until 3 a.m.; however, licensees are restricted to 15 hours of continuous service ending at 3 a.m. on New Year's Day, and off sales will be closed by 12 midnight.

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OFF SALES

TAB 8

Section 47 of the *Liquor Act* provides for a licence allowing the retail sale of liquor in a licensed premises (the “main licence”) for off-premises consumption.

Section 27 of the Liquor Regulations establishes the rules related to off-sales licences.

Application:

Normally, off-sales liquor licences will only be considered where the primary business is the sale of liquor for on-premises consumption to the general public (i.e., a liquor-primary licence).

Licensees may apply for and operate both an off-premises liquor licence, and an off premises liquor licence – restricted to beer and wine, for the same establishment.

Hours of operation:

Off-sales are not allowed before 9:00 a.m. or after 12:00 midnight. The main licence must operate at least four consecutive hours during the day, being open and offering on-premises consumption.

Under an Off-Premises Liquor Licence, off-sales are only allowed during the hours the main licence is operating. This does not apply to Off Premises Liquor Licences – Restricted to Beer/Wine that were approved and operating prior to April 1/09.

General:

A person must leave a licensed premises immediately after making an off-sales purchase.

Liquor, in the opinion of the Board, must be made reasonably available to the public for consumption on the premises under the main licence.

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PERMITS

TAB 9

Under the *Liquor Act*, a Special Occasion Permit to serve and sell liquor may only be issued by Yukon Liquor Corporation to a non-profit organization, whether or not incorporated under the *Societies Act*.

A bona fide non-profit organization does not provide any direct or indirect financial or other gain to its members or directors, and is operated for purposes other than commercial or financial gain. Specifically, its objectives must be:

- the relief of poverty or disease;
- the advancement of education;
- the advancement of religion; or,
- the advancement of cultural, recreational, athletic, or other activity or program which is beneficial to a Yukon community

Unless registered as a charitable organization with Canada Revenue Agency, additional documentation may be required to confirm the applicant's status as a bona fide non-profit organization. This may include:

- proof of incorporation as a Society under the Yukon *Societies Act*;
- constitution, bylaws, and membership list;
- written description of the organization outlining its aims and objectives;
- list of the current executive with addresses and telephone numbers;
- minutes of meetings, financial statements, and financial reports related to the event; and/or
- any other credential determined by the Yukon Liquor Corporation to be necessary

Unless otherwise approved, the cause for which funds are being raised must be clearly stated in all advertising.

An organization which is not a non-profit organization and which sells liquor under a Special Occasion Permit obtained through misrepresentation is liable to penalties under the *Liquor Act* as follows:

		Individual	Corporation
Bootlegging	First offence	Up to \$25,000 fine and/or 12 months imprisonment	Minimum fine of \$10,000, up to \$50,000
	Subsequent offences	Up to \$50,000 fine and/or 12 months imprisonment	Minimum fine of \$10,000, up to \$100,000
General penalty	First offence	Up to \$2,000 fine and/or 6 months imprisonment	Up to \$5,000 fine
	Subsequent offences	Up to \$3,000 fine and/or 12 months imprisonment	Up to \$10,000 fine

When a Reception Permit or Special Occasion permit is approved:

- permit holders must not serve or sell alcohol after 2:00 a.m.; and,
- all patrons must leave the premises as stated in the conditions of the permit

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POOL TABLES

TAB 10

With regard to the use of pool tables:

- The number of pool tables allowed is restricted to 30% of the seating capacity of the licensed premises.
- The capacity cannot be increased by covering the pool table(s) when not in use.

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RESTRICTED ENTERTAINMENT

TAB 11

This policy is in place to address entertainment in licensed premises in accordance with Section 70 of the *Liquor Act*, and Section 11 and subsection 33 (1) of the *Liquor Regulations*:

General: As with all advertising, advertising of all restricted events taking place in a licensed premises must be approved by the President in advance of publication/release.

Exotic Entertainment:

Exotic dancers/strippers will be allowed, provided the performance is not obscene under the provisions of the *Criminal Code*.

No minors are allowed in the licensed premises.

The exotic dancer/stripper must be fully clothed if in the licensed premises before, between, and after performances.

The exotic dancer/stripper must confine their performance to the primary stage and not perform for a customer at a table or in the area where the audience is seated. Absolutely no physical interaction is allowed between exotic dancers/strippers and patrons.

Where entertainment in the form of exotic dancing takes place, a barrier area must be provided. This area must be at least one meter between the audience and performing area.

Animals, birds, or reptiles may not be used by exotic dancers.

Props or devices of a sexual nature or which have a sexual connotation may not be used during performances.

Members of any audience may not touch or be touched by the exotic dancer/stripper. There must be no passing of objects or sharing of food or beverages between the exotic dancer/stripper and members of the audience.

Other: Real or simulated acts of violence are not permitted.

No contact sports (e.g., boxing, mud wrestling, mechanical bull) will be allowed in a licensed premises.

Contests involving feats of strength (e.g., arm wrestling) may be allowed with the approval of the President.

No tournament or contest involving the use of animals, trained or otherwise, will be allowed in a licensed premises.

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SPECIAL LICENCE POLICY

TAB 12

OVERVIEW

PURPOSE	This policy sets guidelines for granting special licences, consistent with general principles of responsible liquor service, and with the <i>Liquor Act</i> and <i>Regulations</i> .
AUTHORITY	Under Section 48 of the <i>Liquor Act</i> , the Yukon Liquor Board may grant a licence “for the sale of liquor under circumstances not otherwise provided for in this Act”.
ELIGIBILITY	<p>Anyone that is eligible to apply for a liquor licence can apply for a special licence by submitting the required forms to the Yukon Liquor Corporation.</p> <p>Forms can be obtained from the Corporation or at one of the rural community Liquor Stores, or by calling 667-5245 (toll-free 1-800-661-0408, ext. 5245).</p>
DEFINITIONS	<p>For the purposes of this policy:</p> <ul style="list-style-type: none">• “available”, in regards to food, means that food is accessible in the room designated as the licensed premises.• “banquet room” means licensed premises where food and beverages may be served to guests attending a social function.• “cater” means to provide food or beverage service.• “guest” means a person who has been specifically invited to attend a social function, a person who has paid a fee or purchased a ticket to attend a social function, or a person who has paid a fee for overnight lodging.• “lodge” means a building designed for overnight accommodation of guests, that is not intended for service to the general public, and that is of sufficient distance away from a community so as to be considered remote.• “premises” means a building or a separate area within a building, or in respect of a deck or patio, attached to a building.• “social function” means a meeting, event or gathering where individuals congregate for a specific purpose.

ELIGIBLE ACTIVITIES

GENERAL	The Board may issue a special licence for the sale of liquor at any activity not otherwise provided for in the <i>Liquor Act</i> . The Board will not grant a special licence where the licensed activity would fit into a defined category in the <i>Liquor Act</i> or <i>Liquor Regulations</i> , if the applicant complied with the relevant conditions.
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Examples of eligible activities include the following:

BANQUET ROOMS

A special licence may be issued for a banquet room under the following conditions:

- The facility is not open to the general public.
- Food preparation facilities at the location are sufficient to provide food for the number identified on the licence as the maximum seating capacity of the banquet room.
- Bar service is located in the room.

CATERING

If an applicant holds another liquor licence in good standing, the Board may allow the licensee to cater events off the licensed premises.

Licensees permitted to cater must obtain approval from the Corporation, for each catering event.

LODGES

A licence to serve liquor may be issued for a lodge on the following conditions:

- The capacity for service of liquor must be directly related to the capacity for overnight guests.
- Liquor may be served to overnight guests and off-duty staff only.

PERFORMANCE VENUES

Hours and location of service, including whether liquor can be served during the performance, will be established by the Board as conditions of the licence.

GENERAL CONDITIONS

ACCESS

The general public will not be admitted to any premises serving liquor under a special licence unless the restrictions associated with the licence are adequate to ensure responsible service and protection of the public.

DUTY-FREE

Where liquor is sold for the purpose of export from Canada, federal rules, as amended from time to time, shall apply.

RESTRICTED ENTERTAINMENT

Any entertainment in the licensed premises must comply with the *Restricted Entertainment Policy* of the Yukon Liquor Board Policy Manual.

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<i>FOOD SERVICE</i>	The Board may, by exception, allow a special licence holder to serve liquor without food.
<i>HOURS OF SERVICE</i>	The maximum number of hours of liquor service is 16 hours, between the hours of 10:00 a.m. and 2:00 a.m. of the following day.
<i>MINORS</i>	Minors may not be served liquor. Minors may be present where liquor is being served under a special licence when they are accompanied by a parent or guardian.
<i>OTHER</i>	Licences will include any other restrictions considered necessary to ensure consistency with the <i>Liquor Act</i> , <i>Liquor Regulations</i> , this policy, and the principles of responsible service.

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SUSPENSIONS AND APPEALS

TAB 13

The licensee has 30 days from the date of the notice of suspension to file an appeal to the Yukon Liquor Board. The Yukon Liquor Board will hold a hearing on the suspension, and provide its decision in writing.

Appellants will be advised by the secretary to the Board of the status of their appeal immediately following the decision of the Board. This initial notification shall be considered the official notification, to be followed up by written notification.

The licensee and the Corporation have 10 days after the Yukon Liquor Board decision is communicated, to file an appeal to the Yukon Supreme Court. This period of time may be extended by the Yukon Supreme Court.

The secretary to the Board will produce the official written transcript of board proceedings for all Yukon Liquor Board meetings as required. No other electronic reproduction of proceedings will be permitted.

A suspension will begin on the same day of the week as the infraction occurred.

The suspension will start within two weeks after the following:

1. the end of the 30-day period to file an appeal to the Yukon Liquor Board, if no appeal has been filed
2. the end of the 10-day period to file an appeal to the Yukon Supreme Court, if no appeal has been filed
3. the date a letter withdrawing the Notice of Appeal is received by the Yukon Liquor Board
4. the date a Discontinuance of Appeal has been filed in the Yukon Supreme Court, or
5. the date of a decision by the Yukon Supreme Court, or as specified in its decision.

The Licensee must post "suspension order posters" where they are visible to the general public from outside the licensed premises. Failure by the licensee to post the Suspension Order posters will directly result in an increase of four days of suspension.

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USE OF LIQUOR-PRIMARY PREMISES OUTSIDE LICENSED HOURS TAB 14

Under the *Liquor Regulations* 14(3), the board may authorize the licensee to use their liquor-primary premises for purposes other than the sale of liquor during times when the premises are closed to the sale of liquor.

APPLICATION

There are occasions when the operator of a liquor-primary premise may wish to use their facilities for other purposes which do not involve the service of liquor. For example, a “breakfast endorsement” allows the premises to operate as a restaurant without liquor service prior to its licensed hours of operation, or the premises could provide for a multi-day community training event without liquor service.

To request this approval, the licensee is to provide the details of the request to Yukon Liquor Corporation, who will then provide it to the Board for their decision. The Board’s response will be provided in writing to the licensee.

Five working days in advance of the activity are requested to ensure adequate time for consideration and processing.

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VARYING HOURS

TAB 15

Any authorization issued by the Yukon Liquor Board or President for a single occasion may be sent via written electronic communication if there is a written electronic device available in that location.

Where a written electronic communication device is used, a copy of the written electronic communication is to be placed by the licensee in a conspicuous place alongside the posted licence. The second copy of the written electronic communication is to be provided by Yukon Liquor Corporation to the RCMP in the community where the licensed premises are located.

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RV PARK LICENCES – PROCEDURES AND RECORDS

TAB 16

The Liquor Act allows the sale of beer or wine only to someone who is a registered overnight guest of the licensed RV Park.

Applicants for an RV park licence must provide the Yukon Liquor Board with a proposal for registering guests and recording their names.

A guest register for this purpose would normally include:

- Date of check-in
- Date of check-out
- Name
- Residence (City/Town, Province/Territory/State, Country)
- Number of guests in party
- Licence plate # (if applicable)
- Site #
- Type of vehicle
- Paid Column

(Sample guest registration attached)

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PUBLIC ADVERTISING & OBJECTIONS

TAB 17

The *Liquor Act* requires that public notice of all new liquor licence applications be published for three successive weeks in a newspaper circulating in the area in which the premises are situated. The format for the advertisement is set by the Liquor Regulations.

Anyone may formally object to the granting of a licence by filing with the President an objection in writing (with reasons) within five days after the last publication of the advertisement for a liquor licence, with a copy to the applicant sent by registered mail. In circumstances where registered mail is not available, other confirmed methods of delivery are also acceptable.

If an objection is filed, the Yukon Liquor Board considers the objection during its hearing, which must be held at least 10 days after the last date of publication. Objectors are notified of the hearing, and offered the opportunity to attend the hearing, either in person or by telephone. At the hearing, the Yukon Liquor Board considers the application and the objections in coming to its decision. Objectors are notified of the decision.

In order to ensure that the public is informed of the applicant's intentions:

1. Although not imposing a legal obligation, the Board encourages applicants to consult with the residents and businesses close to the proposed licensed premises, in order to identify and address any concerns at an early stage.
2. The public is encouraged to keep up to date on issues of interest by checking the newspapers and the Yukon Liquor Corporation website on a regular basis.
3. All newspaper advertisements should be placed in the Friday edition of the relevant newspaper. If there is no Friday edition planned to be published during a week because of a statutory holiday or other reason, then the advertisement should be placed in the next available Friday edition.

The Yukon Liquor Board will continue to ensure that its meeting schedules address the business requirements of applicants, while adhering to the legislation.