



COUNCIL LEAD POLICY

POLICY TITLE: SALE OF LIQUOR

Minute Ref: M05/111.4

Date of Adoption: 3 October 2005

1. POLICY OBJECTIVES

- To clearly define Council's approach to, and administration of, its responsibilities with regards to the Sale of Liquor Act 1989.
- To set parameters to guide liquor licensing for Council and the community.

2. PRINCIPLES

All Council actions will be consistent with the Sale of Liquor Act 1989 and its development and refinement through case law.

Council will provide a transparent and consistent level of service to the industry and the wider community.

Restrictions on the hours of operation may minimise the adverse effects of licensed premises on the surrounding environment

Council will continue to raise the standards within the industry by way of education, liaison, monitoring and enforcement.

3. DEFINITIONS

Adverse Effects – includes excessive noise, the coming and going of patrons, damage to property and offensive behaviour.

Club Licence – authorises the holder to sell liquor to club members and their guests for consumption on the club premises to which the licence applies.

District Licensing Agency (DLA) – is the local authority for the district constituted as the District Licensing Agency by section 99 of the Sale of Liquor Act.

Liquor Licensing Authority (LLA) – is constituted by section 85 of the Sale of Liquor Act.

Manager's Certificate – allows the holder to be appointed as a duty manager of a licensed premises for the purposes of the Sale of Liquor Act.

Off Licence – authorises the licence holder to sell liquor on the premises to which the licence applies, for consumption off the premises eg bottle store, wine shop, supermarket.

On Licence – authorises the licence holder to sell liquor for consumption on the premises to which the licence applies eg tavern, restaurant.

Residential Activity Zone – those zones described in the Tauranga District Plan.

Special Licence – authorises the holder to sell or supply liquor for consumption for an occasion, event or series of events/occasions.

Standalone Off Licence – authorises the licence holder, whose primary business is the sale of liquor, to sell liquor on the premises to which the licence applies, for consumption off the premises.

Tauranga Central Business District – that area shown in the Tauranga District Plan as the central zone.

Temporary Authority – an order issued by the DLA authorising a person who has an interest in a business holding a current on-licence or off-licence, to carry on the sale and supply of liquor for a period of up to three months.

4. BACKGROUND

The objective of the Sale of Liquor Act 1989 is to establish a reasonable system of control over the sale and supply of liquor to the public with the aim of contributing to the reduction of liquor abuse.

The Sale of Liquor Act states that Tauranga City Council is the District Licensing Agency.

Tauranga City Council, as the District Licensing Agency, is required to exercise its jurisdiction, powers and discretion under the Act in a way which is most likely to promote the objective of the Act. This policy contributes to the primary aim of the Act ie the reduction of liquor abuse. Council believes that the key to achieving this is in the promotion of responsible attitudes to the consumption of liquor, of both licensees and the public.

In most cases the District Plan determines licensed premises as places of assembly and does not place restrictions on hours of operation in the Business Commercial Zone. The District Plan does, however, impose noise standards. To determine whether the operation of a licensed premises complies with the District Plan, reference should be made directly to the District Plan.

The Resource Management Act places a responsibility on persons carrying out an activity to avoid, remedy or mitigate any adverse effect on the environment.

This policy does not duplicate the Act, but rather states Tauranga City Council's role in working towards achieving the aims of the Act.

The DLA will be guided by current and relevant case law and Section 96 Statements.

5. POLICY STATEMENT

5.1 Hours of Operation of Licensed Premises

a) On Licences

On Licence premises trading within the Tauranga District which create, or have the potential to create, adverse effects on a site in a Residential Activity Zone are permitted to operate until 1.00am.

On Licence premises trading within the Tauranga Central Business District which do not create, or do not have the potential to create, adverse effects on a site in a Residential Activity Zone are permitted to operate until 3.00am.

b) Off Licences

Off Licences operated in conjunction with an On Licence or Club Licence will be granted, with hours no longer than the On Licence or Club Licence.

Stand alone Off Licence (bottle store) premises may be granted hours up to midnight.

c) Club Licences

As required by the Act, hours of operation for club licenses must relate to the principle activity of the club and each application will be treated on its merits. Club licenses will be granted up to 1am.

d) Special Licences

Special Licences will be assessed on a case by case basis to ensure that the hours of the event are appropriate and adverse effects are minimised.

5.2 Points of Sale in Public Spaces Outside Licensed Premises

Points of Sale in public spaces outside licensed premises may be allowed for events accompanied by road closures and an application for a special licence to cover the entire event. At all other times additional Points of Sale will not be allowed to be set up in the public spaces.

5.3 Applications for Licences or Certificates

All applications must be 'complete' before they will be accepted by the DLA. That is, an application must be accompanied by all relevant information including showing that the activity meets the requirements of the Resource Management Act 1991 and the Tauranga District Plan as well as the Building Act 2004.

A DLA Inspector will report on all applications for licences and certificates consistent with the requirements of the Act.

5.4 Renewal of Licences or Certificates

The DLA Inspector will review the management of the premises, in terms of compliance with the requirements of the Act, when reporting on an application for a renewal of a licence or certificate.

5.5 Variations

Applications for variation or renewals of licences seeking variations to the terms and conditions of the original licence are determined by the DLA.

The DLA Inspector will review the management of the premises, in terms of compliance with the Act and the effects of the proposed variations, when reporting on an application for a variation to a licence.

5.6 Temporary Authorities

Applications must be lodged with the DLA at least 20 working days prior to the applicant wishing to take over operation of the business or where the structure of an existing licensee changes. Applicants are required to provide documentary evidence confirming the applicant's interest in the business.

The DLA's primary consideration is the suitability of the applicant and reports will be requested from the DLA Inspector and the Police on the initial application.

Applications for a temporary authority will be granted for a maximum of three months.

5.7 Special Licences

Special Licences are used to control the sale and supply of liquor for events or social gatherings where an On, Off or Club Licence is not in operation or where an event or social gathering occurs in licensed premises but outside the usual hours of operation or conditions of the licence.

A special licence will not be issued where, in the consideration of the DLA, the extent or regularity of the activity is such that an On, Off or Club Licence is required by the Act. A Special Licence is not a substitute for a substantive licence.

The DLA will be guided by the case law that relates to the issuing of Special Licences, having particular regard to the principles and statements issued by the LLA under S96 of the Sale of Liquor Act.

Special Licence applications are required to be lodged with the DLA at least 20 working days prior to the date of the first event.

5.8 Managers' Certificates

The DLA Inspector may conduct interviews and tests with applicants, both for new and renewals applications. This is to assist in assessing the suitability of an applicant. If an application is opposed, it is sent to the LLA.

As a general guide applicants should have six months experience within the liquor industry under the guidance of a certified manager or licensee. Where an applicant has a financial interest in the licensed premises they should have a minimum of three months experience. Additionally, applicants should be currently employed in the industry in order to be eligible for a manager's certificate.

5.9 Liaison and Advocacy

Education, liaison and advocacy are important roles for DLA in terms of contributing to the reduction of liquor abuse. This includes the following:

- Liaison with the Police, the Medical Officer of Health, licensee representative groups and other organisations
- Support for Host Responsibility principles and initiatives
- Providing information to applicants and interested parties
- Encouraging public participation and involvement in licensing process

- Lobbying central government where the review of legislation is required to enable administration and enforcement of the Act to be more effective.

5.10 Monitoring and Enforcement

The DLA Inspector will address its monitoring enforcement responsibilities by:

- Inspecting licensed premises while the premises are open for trading
- Inspecting taverns and nightclubs at night during the busiest hours of operation, as well as near the end of the hours of operation
- Targeting inspection efforts at premises where non-compliance with licence conditions, or with the Act, is observed or has been reported to the DLA
- Targeting inspection efforts at premises which generate public complaints or police intervention
- Randomly inspecting events for which Special Licences have been issued
- Undertaking joint monitoring operations with the Police and Medical Officer of Health
- Inviting the licensee to meet with representatives of the DLA and Police to discuss any enforcement problems or infringements of the Act and solutions or action that should be taken to rectify the situation
- Advising the licensee in writing of its concerns in relation to any enforcement problems, noting any breaches of the Act that may have taken place and the action that the DLA Inspector requires in order to remedy the situation
- Placing copies of any meeting notes or correspondence on the DLA records for future reference

In cases where breaches of the Act are encountered, appropriate enforcement action will be taken. This may include an application for variation, suspension, or cancellation of a licence, or the suspension or cancellation of a manager's certificate, or prosecution of a licensee or manager or a warning.

5.11 Transitional Provisions

Existing licences for premises with hours beyond those outlined in this policy will not be reviewed until such time as the business changes hands or is restructured and a new licence is required, provided the premises is being managed in a responsible manner.

6. RELEVANT DELEGATIONS

The Chief Executive or his/her delegate has delegated authority for the implementation of this policy.

7. REFERENCES AND RELEVANT LEGISLATION

Sale of Liquor Act 1989

Resource Management Act 1991

Tauranga City Council District Plan

Gambling Venues Policy

Hearings Procedure – Hearings Pursuant to the Sale of Liquor Act Policy

Building Act 1991

Food Hygiene Regulations 1974