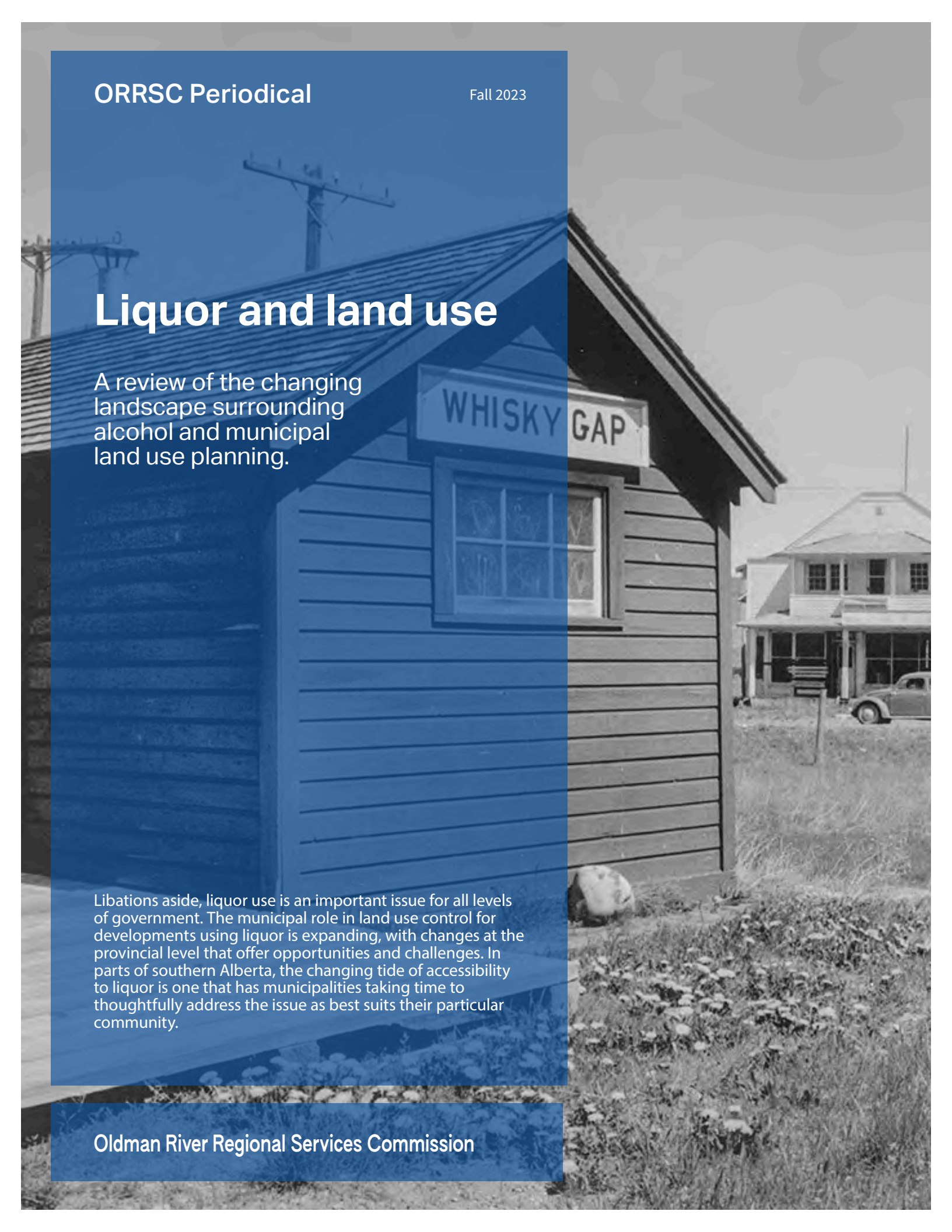


# Liquor and land use

A review of the changing landscape surrounding alcohol and municipal land use planning.

Libations aside, liquor use is an important issue for all levels of government. The municipal role in land use control for developments using liquor is expanding, with changes at the provincial level that offer opportunities and challenges. In parts of southern Alberta, the changing tide of accessibility to liquor is one that has municipalities taking time to thoughtfully address the issue as best suits their particular community.





# Introduction

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The use of alcohol in society is far reaching and ubiquitous. As commonplace as it is, alcohol is a limited substance, restricted from minors, banned in certain areas of the world, avoided by certain religious associations, and regulated by all levels of government. A long history of controlling alcohol-related land uses exists in Canada, with specific control approaches unique to context and geographic area. This periodical will review the historical and present day environment in southern Alberta surrounding alcohol consumption from a land use perspective, and examine municipal approaches to the regulation of alcohol-related land uses.

An alcoholic beverage is a drink that contains ethanol, a type of alcohol that acts as a drug and is produced by fermentation. The use of alcohol as a recreational drug in Canada is exceedingly common, and here in Alberta, over 76% of Albertans aged 15 or over use alcohol. The topic of alcohol use in society is broad, owing to the fact that humans have been producing and consuming fermented beverages as early as the neolithic period. As the authority on local land use, a municipality is responsible for establishing rules respecting land uses that integrate alcohol as a principal or secondary component of their business model. Alcohol-related land use rules can serve to promote a culture of moderation while facilitating responsible use in locations that make sense for the community.

## Historical context

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The interwoven histories of liquor trade and liquor regulation were a formative social and political backdrop prior to and during the early days of the Province of Alberta. The bootlegging of liquor across the International Boundary began in the 1860s, when American traders freighted the prized liquid north to the trading posts in Canada. This prompted the North West Mounted Police to develop a number of detachments throughout southern Alberta to police the illegal cross-border liquor trade. One of these detachments was stationed in “Whiskey Gap,” a small settlement near one of the early wagon cart routes.

The *Liquor Licence Ordinance* (1891) governed liquor sales prior to Alberta becoming a province in 1905 and effected the end of a previous temperance period that had existed in the North-West Territories since 1871. Licensed hotels were allowed, with conditions including requirements for lodging and food, as well as limited liquor stores. The push for temperance led to another period of prohibition beginning in 1916. Despite the police presence, smuggling liquor into southern Alberta would become prevalent once again.

In 1924, Alberta’s prohibition was abolished following a plebiscite vote in favour of the same, and with it the introduction of the *Liquor Control Act*. For the remainder of the decade, cross-border flows of liquor would be in the opposite direction in response to the US implementing its own nation-wide

*Alcohol by volume (ABV) is the global standard for expressing the percentage of alcohol in a beverage. This metric refers to the number of millilitres of pure ethanol present in 100 mL of solution at 20 degrees Celcius.*

*While Canadian linguists and brewers are quick to spell the spirit “whisky,” an Alberta heritage marker posted alongside Highway 501 submits that the contemporary place name “Whiskey Gap” is more historically appropriate in view of the American genre of brew being the first to be smuggled across the border. It has been said that atop the Milk River Ridge, bottles from the 19th century remain hidden in the earth in places unknown.*

Cover image source:  
[Provincial Archives of Alberta](#)



*Oldman River Brewing in Lundbreck within the MD of Pincher Creek operating with a Class A (Manufacturer's Tap Room), Class D (Manufacturer's Off Sales) and Class E (Manufacturer - Small) licences. This establishment is one of eight craft breweries involved in the "Highway 3 Ale Trail" initiative.*

*The City of Red Deer's Entertainment District Bylaw (2022) allows for alcohol consumption along the Ross Street corridor adjacent to the Ross Street Patio—the focal point of the corridor featuring street furniture and live music in partnership with the Downtown Business Association. The district operates between noon and 11 pm, Tuesday through Saturday. Alcoholic beverages must be purchased from licensed vendors within the district and consumed within a disposable, non-glass container—they may not be brought into, or removed from, the district. Public intoxication, underage drinking, cigarette smoking, vaping and cannabis use are not allowed. Despite the use of the term "district," the Entertainment District Bylaw exists outside of the City's land use bylaw. This allows for a more practical enforcement mechanism than the issuance of a Stop Order. Enforcement provisions are contained within the Bylaw, providing for clear guidance on how violations are dealt with as this novel concept matures.*

prohibition. During this time, the newly constructed Prince of Wales Hotel in Waterton Lakes National Park became a popular watering hole for thirsty Americans.

## Contemporary frameworks

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Public alcohol rules vary widely around the world. Across most of Europe, permissive approaches prevail. In Germany for example, drinking in public is generally legal and socially normal. Many areas do not require any "closing hours"—meaning that liquor service in establishments is not regulated—while other areas prohibit service between 3 am to 6 am. In contrast, alcohol use is illegal in much of the Middle East, with strict penalties and varying degrees of enforcement.

In Canada, the regulatory framework for controlling the production, distribution, sale and possession of alcohol is shared between the federal and provincial governments. At the federal level, legal blood alcohol levels for the operation of a motor vehicle are established in the Criminal Code, while authority is delegated to the provinces (and territories) for determining the legal drinking age, which ranges from 18 (AB, MB, QC) to 19 (elsewhere). The provincial and territorial governments maintain wholesale monopolies on the distribution of alcohol, and are typically the leaders in the retail market. Alberta is the lone exception in terms of retail, where liquor stores have been privatized since 1993.

Alberta Gaming, Liquor and Cannabis (AGLC) is the Crown commercial enterprise and agency who oversees the liquor industry in Alberta. The AGLC administers the *Gaming, Liquor and Cannabis Act* and controls liquor licensing through a class system. Section 1(1)(q) of the Act defines liquor as a product intended for human consumption in which the percentage of alcohol by volume exceeds 1% (hence the appearance in grocery stores of non-alcoholic beer containing 0.5% alcohol). Retail liquor stores are restricted from selling non-liquor products pursuant to Section 49 of the *Gaming, Liquor & Cannabis Regulation*. Still, there is some ability to advance a business concept that houses liquor retail sales and other uses under the same roof provided a physical 5 m separation distance is in place (with more information outlined in Section 3.1.1 of the AGLC's Retail Liquor Store Handbook). Similarly, Section 5.12 of the Handbook requires a physical separation between Class A Minors Prohibited premises, which is why many restaurants in Alberta contain a separate lounge area.

## Recent regulatory changes

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In 2013, the AGLC eliminated its minimum production capacity requirement of 500,00 litres for producers in the province. The lifting of this cap opened the door for smaller brewers and distillers to compete with the industrial-scale brewing giants, and in turn facilitated opportunity and innovation in the industry. The opening of this industry has resulted in the proliferation

of microbreweries, wineries and distilleries, and the introduction of these land uses (including associated beverage rooms and entertainment establishments) to municipalities in southern Alberta.

Recent changes (2020) to the *Gaming, Liquor and Cannabis Act* are symbolic of a tolerance to alcohol use shared by most Albertans. Alcohol consumption at campsites in provincial parks is now formally allowed. Select day use area picnic sites in provincial parks and recreation areas—including a variety of southern Alberta parks like Beauvais Lake and Police Outpost—are now open to alcohol consumption between 11am and 9pm. This amendment also opened up the opportunity for municipalities to allow, by posting signage, public park users to bring their own liquor into parks without the requirement to consume food—a move that municipalities have been slow to adopt, but for which opportunity exists to parlay the responsible enjoyment of alcohol in public with nightlife or recreational corridors. Section 89(4) of the *Gaming, Liquor and Cannabis Act* likewise permits the consumption of alcohol in a public place designated by a municipality (pursuant to a bylaw) as an entertainment district. Furthermore, whereas it is otherwise illegal to remove liquor purchased from licensed premises from said premises (except for a partially consumed bottle of wine), Section 91.1(3) of the *Gaming, Liquor and Cannabis Regulation* empowers a municipality to include a provision in its entertainment district bylaw that permits an alcoholic beverage purchased from a licensed establishment within an entertainment district to be carried anywhere within the boundary of the district.

## Changing face of prohibition

For certain municipalities in southern Alberta who have always been subject to a prohibition on the use of alcohol, the biggest change coming from Bill 2 was what in effect serves to potentially end a long period of prohibition. While most of Alberta emerged from Prohibition in 1924, all areas within Cardston County and a portion of the County of Warner remained prohibited from obtaining a liquor licence under the then-in-force *Liquor Control Act*. In 2020, the province amended the *Gaming, Liquor and Cannabis Act*, effectively repealing prohibition in favour of a process whereby a formerly dry municipality can choose whether or not to open the community to liquor licensing. This process is specified in Section 56 of the amended Act, whereby a municipality has 90 days to respond to an initial application for a licence. If successful, additional licences can be applied for, as is the case anywhere else in the province. If the Council of the municipality denies approving the licence, a 3 year moratorium is to follow. It's important to note that this does not apply to special event licensing, which authorizes the use of liquor for a limited duration.

The provincial change is especially significant to urban centres in the former prohibition areas, including the towns of Cardston, Magrath, Raymond and the Village of Stirling. Historic restrictive covenants are registered against many of the land title certificates in these communities, expressing

*Part 5 of the former Liquor Control Act prohibited the establishment of a liquor store as well as the issuance of a liquor licence for a beverage room, club or dining lounge on lands located within the MD of Sugar City No. 5 or the MD of Cochrane No. 6—two former rural municipalities that would ultimately be dissolved, and whose lands today are within the County of Warner and Cardston County.*

*In March of 2022 the Town of Raymond asked residents if they supported providing licensed restaurants the ability to sell alcohol. A narrow majority of 52% of residents voted against changing local regulations on liquor, which was followed by a 6-1 vote by town Council to keep in place its 120 year old ban on alcohol sales. In June 2023 the Town of Cardston queried residents with respect to prospective Bylaw 1647K, which would facilitate the opportunity for Class A liquor licences in restaurants and Class B liquor licences at recreational facilities. 53% percent of residents voted in support of ending prohibition.*

Number of Existing Retail Liquor Stores in Select Towns within the ORRSC Region:

- Bassano (pop. 1216) - 1
- Claresholm (pop. 3804) - 4
- Coalhurst (pop. 2869) - 1
- Fort Macleod (pop. 3297) - 4
- Milk River (pop. 824) - 1
- Nanton (pop. 2167) - 3
- Nobleford (pop. 1438) - 1
- Picture Butte (pop. 1930) - 1
- Pincher Creek (pop. 3622) - 4
- Stavelly (pop. 544) - 1
- Vulcan (pop. 1769) - 3
- Vauxhall (pop. 1286) - 2

restrictions on the establishment of liquor-related businesses among other unwanted activities. Instruments like this loom large and alongside the faith-based history of these communities. Each community has gone through, or is currently in the process of determining, the best regulatory approach to serve its respective environment. Of course the notion of “opening” a previously dry community to liquor is hugely symbolic—so much so that thoughtful public consultation processes have been employed prior to decision making, as it is a door that once opened is unlikely to ever be reversed.

As of today, the Town of Magrath and the Town of Cardston have allowed for limited opportunity for liquor use through their land use bylaws, while a broader expanse of liquor-related uses is accommodated in Cardston County’s land use bylaw. The Town of Raymond voted against allowing liquor use in the community, continuing to uphold the decades-old prohibition, while the Village of Stirling has yet to consider the matter.

## Municipal approaches

The sale of liquor can generally be divided into two categories for municipal planning purposes: retail sale of packaged product for consumption off-site, and the sale of open beverages, bottled or prepared, for consumption on the premises. This simple binary can be further broken down into types of establishments based on provision of food sales, hours of operation, hard liquor versus beer and wine, if live entertainment is provided, if accommodations are provided, if minors are allowed, and so on. It’s for this reason that many municipalities choose to tie their land use bylaw definitions to the AGLC’s liquor licence classifications—a recognition of the multi-jurisdictional nature of the land use.

The AGLC has a liquor licence class system spanning Classes A to F, as well as other use-specific and special event licences. For municipalities wanting to regulate liquor-related land uses, reference to a specific licence class—like a Class A licence where food is the main source of business—can be an effective approach that precludes the need to create custom definitions. For example, where late night, alcohol primary land uses like nightclubs are not desired, a land use definition can be drafted that limits a use to a “Class A Minors Allowed” liquor licence. The Towns of Magrath and Cardston use this approach to limit both restaurants and establishments falling under “facility, licensed” to the parameters established in Class A Minors Allowed and Class B liquor licences respectively (as well as a Class C licence in Magrath). In Cardston County, a district specific to liquor was introduced that provides for a range of licensed facilities spanning Classes A–F.

A municipality wanting to limit the ready availability and visibility of liquor stores can introduce a separation buffer into its land use bylaw, provided that a retail liquor store is defined separately from other retail uses. The City of Edmonton, for example, requires a 500-m buffer between liquor stores. Separation distances are likely to be upheld where it’s clear that



*The Imperial Hunter Hotel in the Town of Bassano, which operates under Class A (Minors Prohibited) and Class D (General Off Sales, Hotel) licences.*

the underlying rationale goes beyond business competition, and is instead a true planning objective. In the City of Spruce Grove, a 100-m buffer is required from liquor stores to public/community land uses—mirroring the requirement established in Section 105(3) of the *Gaming, Liquor and Cannabis Regulation* for minimum separation distances between cannabis stores and health care facilities, schools, and parcels of land designated as “school reserve” or “municipal and school reserve.”

Separation distances are one of many of the recommendations found in the Alcohol Policy for Community Safety, Vibrancy, Health and Well-Being - A Practical Guide for Alberta Municipalities (Alberta Health Services, 2022). The document contains a comprehensive review of options and opportunities for municipalities with the aim of reducing alcohol abuse and crime, in an effort to create safer communities. One tool used by the City of Wetaskiwin is a provision in its Business Hours Bylaw that limits the business hours for liquor stores (including off sales) from 10 am to 10 pm - less than the AGLC’s allowable range of 10 am to 2 am. Ultimately, a municipality can establish its own rules applicable to liquor land uses provided they don’t reduce the regulatory requirements established by the AGLC.

Crime Prevention Through Environmental Design (CPTED) is an approach that aims to manage built and natural environments through purposeful design measures (lighting, landscaping, visibility requirements etc.). Liquor-related uses are often associated with increased crime and illicit activity. CPTED can help mitigate the opportunity for these types of activities—something recognized by the Downtown Lethbridge Business Revitalization Zone who offers grants up to \$5000 for CPTED-related improvements. The City of Brooks promotes “natural surveillance” through required CPTED elements for retail liquor stores stipulated in its land use bylaw. However, it is noted that Section 21 of the *Matters Related to Subdivision and Development Regulation* provides that a Development Authority can impose CPTED features as a condition of development permit, regardless of whether these provisions are expressly authorized in the land use bylaw.

## Concluding remarks

In recognition of the influence alcohol can have on the social, health, religious and recreational aspects of a community, it’s important that municipalities consider thoughtfully approaching the topic. The interplay of liquor and land use can be complex and a municipality is advised to broach this sensitive issue with the benefit of a public consultation campaign. The municipal development plan is one vehicle through which public opinion on this matter can be solicited and conveyed, wherein an alcohol-related questionnaire might be attached as an appendix to the plan. Presented alongside policing statistics on alcohol-related infractions and crimes, survey information can serve as baseline data to measure change as land uses come and go, and with it the needle of public opinion.



Source: [visitparkcity.com](http://visitparkcity.com)

*High West Distillery, established in 2006, is the first legally licensed distillery in Utah since the end of (American) Prohibition in 1933. This Park City-based business establishment operates out of a repurposed livery stable (aka “the National Garage”), and the property includes an accompanying saloon. High West bills itself as the world’s first and only “ski-in gastro-distillery.”*

*For more information on this topic contact [admin@orrsc.com](mailto:admin@orrsc.com) or visit our website at [orrsc.com](http://orrsc.com).*

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