



**Washington State
Liquor and Cannabis Board**

Alcohol Impact Areas

**Washington Administrative Codes
314-12-210 and 314-12-215**

**Local Authority Handbook
January 2019**

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Section 1. Background and Process Overview

A. Background

The Alcohol Impact Area (AIA) rules (Washington Administrative Code (WAC) 314-14-210 through WAC 314-12- 225), establish the framework under which the Washington State Liquor and Cannabis Board (LCB), in partnership with local government and community organizations, can act to mitigate the negative impacts on a community that result from the presence of chronic public inebriation. Under these rules, chronic public inebriation exists when the effects of the public consumption of alcohol and/or public intoxication occur in concentrations that endanger the welfare, health, peace, or safety of a community.

Rules concerning AIAs:

- 1) Expand the timeline for the local review process for liquor license applications, license assumptions and renewals of active liquor licenses for businesses located with a recognized AIA;
- 2) Establish standards under which the Board may refuse to issue, permit assumption, or renew a liquor license; place conditions on the issuance, assumption or renewal of a liquor license; or place conditions or restrictions on an existing license for those locations which fall within a recognized AIA; and
- 3) Allow the Board in specific circumstances to restrict the off-premises sale of certain liquor products or liquor product containers inside a recognized AIA.

B. Process Overview

- 1) Prior to requesting an LCB-recognized AIA, the local authority must establish a voluntary AIA through a local ordinance.
- 2) If, after a minimum of six (6) months, the local authority determines that the voluntary effort has failed, they may petition the Board to establish an LCB-recognized AIA.
- 3) The local authority must provide all the necessary documents and information required by LCB rule as part of the petition process.
- 4) Upon receiving the petition, the Board may approve the AIA, deny the AIA, or request additional efforts and/or information.
- 5) Once approved, the local jurisdiction will be required to submit reports to the LCB as specified by rule.
- 6) Changes may be made through subsequent requests to the Board.

Section 2. Local Authority Responsibilities

Getting started – voluntary AIA

To request an AIA, the local authority must:

- a. Designate a voluntary AIA by ordinance;
- b. Make good faith efforts for at least six months to mitigate the effects of chronic public inebriation;
- c. Petition the Board to recognize the AIA if, after at least six (6) months, the voluntary effort is deemed unsuccessful.

Recommendation: Contact the Licensing and Regulation Division at the LCB and work with a designated staff person as you begin this process. You will want to ensure you are meeting all requirements should you want to transition from a voluntary AIA to a Board-recognized AIA. Staff are also available to meet with local officials and residents to outline and explain the process for AIA designations by the Board.

Step 1. Designate an AIA by local ordinance

To begin the process, a local authority must approve a local ordinance that designates an area as a voluntary AIA. There are specific requirements for this ordinance.

- 1) The geographic area of an AIA must not include the entire territory of a local authority. For example, you cannot designate an entire city or town as an AIA.
- 2) The ordinance must explain the rationale of the proposed boundaries and describe the boundaries in a way in which:
 - a) The LCB will be able to determine which liquor licenses are in the proposed AIA; and
 - b) The boundaries are understandable to the public at large.

Note: *When a boundary includes a street, it is recommended that the boundary include both sides of the street. Having different rules for businesses located across the street from each undermines the success of an AIA.*

Step 2. Make good faith efforts for at least six months to mitigate the effects of chronic public inebriation (WAC 314-12-215 (4))

- 1) A local authority must notify all off-premises sales licensees in a proposed AIA that:
 - a) Behavior associated with liquor sales and associated illegal activity is impacting chronic public inebriation; and
 - b) Existing voluntary options are available to them to remedy the problem.

- 2) A local authority's efforts must include additional voluntary actions. Examples include:
 - a) Collaborative actions with neighborhood citizens, community groups or business organizations to promote business practices that reduce chronic public inebriation;
 - b) Attempts to achieve voluntary agreements with off-premises sales licensees to promote public welfare, health, peace, or safety;
- 3) Requesting licensees to voluntarily discontinue the sales of products that are considered to contribute to the problem;
- 4) Distribution of educational materials to chronic public inebriates or licensees;
- 5) Detoxification services;
- 6) Business incentives to discourage the sale of problem products; or
- 7) Change in land use ordinances.
- 8) A local authority must implement these voluntary actions for at least six (6) months before presenting documentation to the LCB that voluntary efforts failed to adequately mitigate the effects of chronic public inebriation.

If voluntary actions are successful, you likely will have no need to petition the Board to formally designate an AIA.

Section 3. Petition for a Board Recognized Alcohol Impact Area

A. Overview of requirements

If voluntary actions are not successful, the next step is to petition the Board for formal recognition of the AIA. Using the boundaries established in the local ordinance, the local authority must:

- 1) Demonstrate the need for an AIA and describe how chronic public inebriation or illegal activity associated with liquor sales or consumption within a proposed AIA:
 - a) Contribute to the deterioration of the general quality of life within the AIA; or
 - b) Threaten the welfare, health, peace or safety of an AIA's visitors or occupants;
- 2) Document a pervasive pattern of public intoxication or public consumption of liquor;
- 3) Document the local authority's past good faith efforts to control the problem through voluntary measures (see previous section on voluntary efforts);
- 4) Explain why past voluntary measures failed to sufficiently resolve the problem; and
- 5) Request additional conditions or restrictions and explain how the conditions or restrictions will reduce chronic public inebriation or illegal activity associated with off-premises sales or consumption (see WAC 314-12-215 (3)).

B. Required documentation

To demonstrate the problems described above, the following are required:

- 1) Litter/trash survey;
 - a) Within the proposed boundaries, conduct a litter/trash survey for at least a four (4) week period, minimum of twice a week;
 - b) Use a GIS data map or similar tool to point out the “hot spots” of heavy alcohol consumption based on the survey; and
 - c) Provide a list of alcohol products found.
- 2) Photographic evidence of litter and drinking in public (faces may be blurred/blacked out for privacy);
- 3) Law enforcement testimonials;
 - a) Provide a written testimonial from at least one (1) officer who frequently works within the proposed boundaries. The testimonial should include the impact of high alcohol content or high volume products within the proposed boundaries and how the implementation of an AIA would benefit the community.
- 4) Letters of support submitted by neighborhood councils, local agencies, schools or universities, business associations, fire departments, local businesses, or private citizens in the community;
- 5) Crime statistics and police reports;
- 6) Statistics for alcohol-related criminal activity within the proposed boundaries;
- 7) Evidence linking specific products with chronic public inebriation, e.g. pictures, information from police reports that indicate the product(s) being consumed, etc.;
- 8) Documentation that demonstrates the local authority's past good faith efforts to control the problem through voluntary measures, including:
 - a) An executive summary of the results of the voluntary compliance period;
 - b) Evidence of the local authority's efforts to control the problem through voluntary measures;
 - c) An explanation as to why the voluntary measures were not effective and how mandatory restrictions will help address the problem; and
 - d) Request for conditions or restrictions, explaining how they will reduce chronic public inebriation or illegal activity associated with off-premises sales or liquor consumption. (See Section 3A (4))

C. Supplemental materials

Supplemental materials may be provided with the original petition or may be requested by the Board once the petition has been reviewed. Supplemental materials may include:

- 1) Additional testimonials from citizens who would be directly affected by the proposed AIA;
- 2) Emergency medical response data which provides evidence that chronic public inebriation within the area requires an abnormally high amount of medical emergency care;
- 3) Sanitation reports that provide evidence that chronic public inebriation within the area creates an abnormally high amount of sanitation problems; and/or
- 4) Detoxification reports that provide evidence that chronic public inebriation within the area requires an abnormally high amount of detoxification services (if available in the community).

D. Conditions and restrictions that can be requested

Restrictions may include but are not limited to:

- 1) Limitations on hours of operation for off-premises liquor sales (Restrictions affecting business operations, such as hours of operation, may originate from a local authority's law enforcement agency, public authority or governing body);
- 2) Restrictions on off-premises sale of certain liquor products within an AIA; and/or
- 3) Restrictions on container sizes available for off-premises sale.

Some examples of possible restrictions are:

- 1) Not selling liquor products during certain times of the day, e.g., before 11 a.m.;
- 2) Not selling single serve containers;
- 3) Setting a maximum size for malt beverage containers to be sold on the premises; and
- 4) Banning certain brand items.

E. Determining products to be banned

The Board has adopted a standardized list of products that will be banned in AIAs. This list can be found on the LCB website under Licensing/Alcohol Impact Areas. The list consists of products that have been banned in the majority of current AIAs and have therefore been determined to be a consistent problem.

Additional product restrictions (e.g., additional products or container sizes) must originate from the local authority's law enforcement agency or public health authority.

Additional product restrictions must be reasonably linked to problems associated with chronic public inebriation or illegal activity. Reasonable links include, but are not limited to: police, fire or

emergency medical response statistics; photographic evidence; law enforcement, citizen or medical provider testimonial; testimonial by current or former chronic public inebriates; litter pickup; or other statistically documented evidence.

On the LCB website, you can review materials from other local authorities which have established AIAs. This may assist you in compiling your information.

Section 4. Liquor and Cannabis Board Petition Review and Follow-up Actions

LCB staff will review the local authority petition, including required documents, and work with a representative to prepare the submission to the LCB. The staff member will notify the local authority representative of the Board meeting at which the petition will be considered. It is important that the local authority be represented at the meeting.

The Board may accept the petition and officially recognize the AIA (with or without changes), deny the petition, or request additional information or documentation.

The Board can set conditions for or restrict the following:

- 1) Business hours of operation for off-premises liquor sales;
- 2) Off-premises sale of certain liquor products within the AIA; and
- 3) Restrictions on container sizes available for off-premises sales.

After approval

The Board Resolution, signed when the AIA is approved, will include the effective dates. Product restrictions will go into effect no less than thirty (30) days after the resolution is signed in order to give distributors and licensees adequate time to remove the products.

In a timely manner after approval, the LCB will:

- 1) Notify the appropriate liquor distributors of the product restrictions; and
- 2) Notify all off-premises sales licensees within the new AIA of the Board's approval of the AIA.

Section 5. Review Process for License Approvals, Assumptions, and Renewals within an Alcohol Impact Area

A. New applications that include an off-premises sales privilege and assumptions of a license

- 1) The local authority will have an extended time period of sixty (60) calendar days to comment on the application.
- 2) The local authority is encouraged to submit comment before the end of the comment period.

- 3) An extension may be requested when unusual circumstances, which must be explained in the request, require additional time for comment.
- 4) The local authority will notify a licensee or applicant when the request is made to extend the sixty (60) day comment period.

B. License renewals

- 1) The LCB will notify a local authority at least ninety (90) calendar days before a current license expires.
- 2) The same requirements as those listed for new applications (previous section) will apply to the ninety day comment period for problem renewals. A problem renewal means a licensee, a licensed business or a licensed location with a documented history of noncompliance or illegal activity.

Section 6. When and for How Long Will an Alcohol Impact Area Be in Effect?

An AIA takes effect on the day the Board passes a resolution to recognize the AIA. However, product prohibitions take place no less than thirty (30) calendar days after the Board passes the resolution in order to give retailers and distributors sufficient time to remove products from the shelves.

An AIA remains in effect until:

- 1) A local authority repeals the enabling ordinance that defines the AIA;
- 2) A local authority requests that the LCB revoke its recognition of an AIA;
- 3) The Board repeals its recognition of an AIA of its own initiative and following a public hearing; or
- 4) A local authority fails to comply with the reporting requirements.

SECTION 7. Requesting Changes to an Existing Alcohol Impact Area

A local authority may petition the LCB to:

- 1) Modify the geographic boundaries of the AIA;
- 2) Repeal or modify an existing condition or restriction; or
- 3) Create a new condition or restriction.

The Board may agree to do so provided the local authority shows good cause and submits supporting documentation. (See requirements for the original application process.)

The LCB will notify, in a timely manner, all off-premises sales licensees in the AIA whenever the Board recognizes changes to an AIA and its conditions and restrictions.

A. Adding products to the Banned Products list

A local authority may request the Board approve additional products to the Banned Products List provided:

- 1) The products are reasonably linked to the problems associated with chronic public inebriation or illegal activity. To demonstrate the link, see the requirements listed in Section 3 (E).

Prohibition of a new product added to an existing prohibited products list takes effect no sooner than thirty (30) calendar days following the Board's recognition of a modified prohibited list.

B. Removing products from the Banned Products list

When proposing the removal of a condition, restriction or product from its banned products list, the local authority must provide in writing the reason for doing so (such as a product is no longer produced or bottled).

Section 8. Reporting Requirements

Year One Report

The first report is due with the following requirements:

- 1) Submit a report to the LCB that clearly demonstrates the intended effectiveness of an AIA's conditions or restrictions;
- 2) The report is due no later than sixty (60) calendar days following the first anniversary of the implementation of the AIA; and
- 3) The report must include the same categories of information and statistics that were originally used to request the AIA. (*E.g., use the same statistics that you used in your request to the LCB. You do not need to do a litter survey.*)

5-year Assessment

The LCB will conduct an assessment once every five (5) years following the fifth, tenth, fifteenth, etc., anniversary of the implementation of the AIA.

- 1) A report of the previous five (5) years is due to the LCB no less than sixty (60) calendar days following the anniversary of the implementation of the AIA.
- 2) Within twenty (20) calendar days of receiving the report, the LCB shall notify "affected parties" of the upcoming assessment. Affected parties include but are not limited to licensees, residents, and neighboring local authorities.

- 3) Affected parties have twenty (20) calendar days to comment on or petition the Board to discontinue its recognition of an AIA.
- 4) An affected party may submit a written request for a single twenty (20) calendar day extension of the comment period, which the LCB may grant provided that an affected party provides sufficient reason for being unable to meet the initial twenty (20) day deadline.
- 5) The LCB will complete an assessment within sixty (60) calendar days following the close of the final comment/petition period. The assessment shall include an analysis of:
 - a) The same categories of information and statistics that were originally used to request the AIA. While a litter survey is not required, it may be helpful for the local authority to do one, especially if they want to take this opportunity to request changes to the AIA's Banned Products list.
 - b) Comments or petitions submitted by affected parties.

The assessment may also include modifications that a local authority must make as required by the Board, or the Board's reasons for revoking recognition of an AIA.

Section 9. Petitioning the Liquor and Cannabis Board to Discontinue an Alcohol Impact Area

To successfully petition the LCB to discontinue its recognition of an AIA, an affected party must:

- 1) Submit findings of fact that demonstrate how chronic public inebriation or illegal activity associated with liquor sales or consumption within the AIA does not or no longer:
 - a) Contributes to the deterioration of the general quality of life within an AIA; or
 - b) Threatens the welfare, health, peace or safety of an AIA's visitors or occupants;
- 2) Submit findings of fact that demonstrate the absence of a pervasive pattern of public intoxication or public consumption of liquor as documented in crime statistics, police reports, emergency medical response data, detoxification reports, sanitation reports, public health records or similar records; and
- 3) Demonstrate how the absence of conditions or restrictions will affect chronic public inebriation or illegal activity associated with off-premises sales or liquor consumption.