

BEVERAGE CONTAINER DEPOT PERMIT APPLICATION, RENEWAL AND AMENDMENT BY-LAW



Beverage Container Management Board

1. Interpretation

- 1.1. This By-law is made pursuant to section 18(1) of the Regulation.
- 1.2. This By-law applies to all applications for a new Depot Permit, all applications for the renewal of a Depot Permit and all applications to amend an existing Depot Permit that are submitted to the BCMB after February 19, 2014.
- 1.3. Unless the context otherwise requires, the *Interpretation Act* R.S.A. 2000 c.I-8 and the *Environmental Protection and Enhancement Act* R.S.A. 2000 c E-12, as amended, apply to this By-law.
- 1.4. Words importing the singular include the plural and vice versa; words importing gender include the masculine, feminine and neuter genders; and words importing persons include individuals, bodies corporate, partnerships, trusts and unincorporated associations.
- 1.5. The headings used throughout this By-law are inserted for reference purposes only, and are not to be considered or taken into account in construing the terms or provisions of any article of this By-law nor to be deemed in any way to qualify, modify or explain the effect of any such terms or provisions.

2. Definitions

- 2.1. In this By-law, unless the context otherwise requires:
 - a. “Application” means an application for a new Permit;
 - b. “Application for Renewal” means an application to renew an existing Permit;
 - c. “Application for Amendment” means an application to amend an existing Permit through the amendment to, addition of or deletion of a term or condition of that Permit, and includes an application to amend a Permit to relocate a Depot operating under an existing Permit;
 - d. “BCMB” means the Beverage Container Management Board. The Beverage Container Management Board is the regulatory authority established under the *Environmental Protection and Enhancement Act* R.S.A. 2000 c. E-12 and the Regulation to establish, maintain and administer a waste minimization and recycling program for beverage containers;
 - e. “BCMB Management” means the staff of the BCMB;
 - f. “Board” means the Board of Directors of the BCMB;

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- g. “Depot” means a place operated as a business for the collection of empty beverage containers;
 - h. “Depot Manager” means the person primarily responsible for operating the Depot whether or not that person is also the Permit Holder;
 - i. “Metro Area” means the City of Edmonton or the City of Calgary;
 - j. “Permit” means a permit to operate a Depot issued by the Beverage Container Management Board as required by section 14 of the Regulation;
 - k. “Permit Holder” means an individual or an incorporated entity that has been issued a Permit;
 - l. “Regulation” means the *Beverage Container Recycling Regulation*, Alta Reg 101/97 as amended;
 - m. “RFA” means a Request for Applications for a Permit issued in a form approved by BCMB Management;
 - n. “Rural Area” means a municipality with an official population of less than 10,000 according to the Government of Alberta’s most recent Municipal Affairs’ Population List;
 - o. “Rural Area – Large” means a municipality with an official population of more than 4,000 and less than 10,000 according to the Government of Alberta’s Municipal Affairs’ most recent Population List.
 - p. “Rural Area – Small” means a municipality with an official population of 4,000 or less according to the Government of Alberta’s Municipal Affairs’ most recent Population List.
 - q. “Urban Area” means a municipality with an official population greater than or equal to 10,000 according to the Government of Alberta’s most recent Municipal Affairs’ Population List other than the City of Edmonton and the City of Calgary.
- 2.2. Unless otherwise indicated, terms that are defined in the Regulation have the same meaning when they are used in this By-law.

3. Applications for New Permits

- 3.1. Subject to section 3.2, applications for a Permit in a Metro Area or an Urban Area will only be accepted by the BCMB if they are submitted in accordance with an RFA issued by the BCMB for that Metro or Urban Area.
- 3.2. Notwithstanding section 3.1 an Application for a Permit in a Metro Area or an Urban Area that relates to an existing Depot may be submitted to the BCMB without the issuance of an RFA.

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- 3.3. Applications for a Permit in a Rural Area may be submitted to the BCMB at any time.
- 3.4. The decision whether or not to issue an RFA in a Metro or Urban Area is in the sole discretion of BCMB Management, taking into consideration the matters set out in section 5 of the BCMB Administrative By-law and the population requirements set out in this section and in Section 7.
- 3.5. In deciding whether or not to issue an RFA BCMB Management may take into account anticipated population growth.
- 3.6. BCMB Management will assess the need for a new Depot to be located in a Metro or Urban Area using the population of the area as determined by the Government of Alberta's most recent Municipal Affairs Population List.
- 3.7. The number of Depots needed in a Metro Area shall be calculated by dividing the population of that Metro Area by 40,000, without rounding.
- 3.8. The number of Depots needed in an Urban Area shall be calculated by adding 10,000 to the population of the Urban Area, then dividing the population of that Urban Area by 30,000.
- 3.9. Notwithstanding sections 3.4 to 3.8, the Board may, in its sole discretion, allow BCMB Management to issue a new Depot Permit in a Metro or Urban Area even though the population requirements set out in this section have not been met.

4. Qualifications of Applicants for New Permits

- 4.1. Where the proposed Permit Holder is an individual or individuals, the applicant for the Permit must be the proposed Permit Holder or one of the proposed Permit Holders.
- 4.2. An individual applicant or an individual who signs an application on behalf of an incorporated applicant must be at least 18 years of age and must be able to provide authorization to make the application on behalf of the incorporated applicant if requested by the BCMB.
- 4.3. An applicant for a Permit must be able to demonstrate that the proposed Permit Holder has operating capital or a line of credit in an amount no less than three month's operating expenses as projected in the budget for the depot submitted with the Application, or the following amount, whichever is greater:
 - a. for a depot located in a small Rural - \$5,000
 - b. for a depot located in a large Rural Area - \$20,000
 - c. for a depot located in an Urban Area - \$30,000
 - d. for a depot located in a Metro Area - \$40,000

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- 4.4. An individual applicant and an individual who signs an application on behalf of an incorporated entity is required to prove their own English proficiency and the English proficiency of a Depot Manager in one of two ways:
- a. Proof of birth and/or education in an English-speaking country; or
 - b. A Canadian Language Benchmark score of six (6) or better on speaking and listening and score of four (4) on reading and writing.
- 4.5. If an individual applicant or an individual who signs an application on behalf of an incorporated entity or a Depot Managers is unable to provide the documents referenced in section 4.4, he or she must take a Canadian Language Benchmark Assessment Test through an institution approved by the BCMB and must then provide evidence satisfying the requirement in section 4.4

5. Application Requirements for New Permits

- 5.1. An Application shall be in a form approved by BCMB Management, but at a minimum shall require the following information and documentation to be provided by the applicant:
- a. Where the applicant is an individual, confirmation that the applicant will be a Permit Holder;
 - b. the name, address, telephone number, email address and signature of the applicant;
 - c. Where the applicant is applying on behalf of an incorporated entity, the name of the proposed Permit Holder and the name of the individual who will be jointly and severally responsible with the Permit Holder for compliance with the Regulation, BCMB By-laws, bylaws, policies and guidelines and with the terms and conditions of the Permit, if one is issued, as well as a current mailing address, phone number and email address for that individual;
 - d. Where the applicant is applying on behalf of an incorporated entity, a current corporate search disclosing the directors and shareholders of that entity, and such further and other corporate information as the BCMB may reasonably require in order to ascertain the identity of the directors, shareholders and officers of that entity;
 - e. The name of and contact information for the Depot Manager;
 - f. A business plan containing the following information and documentation:
 - i. the address and legal description of the proposed Depot site;
 - ii. details of the ownership or lease of the premises where the Depot will be operated and supporting documentation;

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- iii. detailed site plans including lot dimensions and measurements, building placement on lot, vehicle entrance/exit, parking, adjacent streets and avenues and alleys;
 - iv. detailed building plans including dimensions and measurements showing areas intended for proposed customer access and service area, manufacturer access and loading area, storage and sorting facilities;
 - v. a description of staffing levels;
 - vi. the proposed hours of operation;
 - vii. evidence of the proposed depot's operating capital or line of credit;
 - viii. identification of population to be served;
 - ix. financial information, including:
 - a) goals/objectives and how these will be obtained;
 - b) one year and three year forecasts including income statements and balance sheets;
 - c) monthly cash flow projections for the first three months of operation.
 - x. proposed or actual dates for obtaining a development permit, construction commencement, construction completion and commencement of operation of the depot;
 - xi. a description of the public consultation process to be carried out by the applicant, if any; and
 - xii. confirmation of appropriate districting/zoning or a detailed description of the steps required to obtain appropriate districting/zoning and the timelines for those steps.
- 5.2. An Application must be accompanied by a non-refundable application fee in the amount specified in the Fee By-law.
- 5.3. An applicant for a Permit must submit to the BCMB a criminal record check relating to the applicant, or where the application is on behalf of an incorporated entity, a criminal record check relating to the Directors and Shareholders of the incorporated entity.

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- 5.4. An applicant for a Permit must submit to the BCMB a criminal record check relating to the Depot Manager and the individual identified pursuant to section 5.1 c. and such other people as the BCMB may request.
- 5.5. Where pursuant to a by-law, bylaw, policy or guideline established by the BCMB, security or insurance is required in respect of a Permit, the BCMB may not issue a Permit until satisfied that the security or insurance has been obtained and proof of the security or insurance has been provided to the BCMB.
- 5.6. The proposed Permit Holder must be the owner or lessee of the location where the proposed Depot will be operated or have a signed offer to purchase or lease the location, which offer is subject only to the issuance of a Permit.

6. Application and Evaluation Process for New Permits

- 6.1. The Application and evaluation process with respect to an Application submitted in a Metro or Urban Area pursuant to an RFA shall be as set out in that RFA, and section 6 of this By-law does not apply to such an Application.
- 6.2. The application and evaluation process with respect to an Application submitted pursuant to section 3.2 or an Application submitted in a Rural Area shall be as set out in this section of the By-law.
- 6.3. The BCMB shall not review an Application for the purpose of making a decision unless it is a complete Application in the form approved by the BCMB. An incomplete Application will be returned to the applicant.

Notice of Application for New Permit

- 6.4. Where an Application is submitted and the Application, in the opinion of the BCMB, is a complete Application, the BCMB may, or may require the applicant to, do one or both of the following:
 - a. publish notice of the application in one or more issues of a newspaper that has daily or weekly circulation in the area in which the depot that is the subject of the application is or will be located; and
 - b. provide notice of the application in the manner determined by the BCMB.
- 6.5. A notice under section 6.4 may contain the following:
 - a. the name of the applicant;
 - b. a description of the depot;

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- c. the location, nature of operation, capacity and size of the depot to which the notice relates;
- d. a statement that a person who is directly affected by the application may submit written concerns to the BCMB within 30 days of the last notice made under section 4 with respect to the Application, or within any longer period specified by the BCMB in the relevant notice;
- e. the locations where information about the depot may be obtained or is available for public disclosure; and
- f. any other information required by the BCMB.

Additional Information

- 6.6. During the review of an Application the BCMB may request oral information or additional written information from
 - a. the applicant;
 - b. a person who is directly affected by the Application;
 - c. a local authority, the Government of Alberta , a Government agency or the Government of Canada or an agency or department of that Government; and
 - d. any other source the BCMB considers appropriate.
- 6.7. Before making a decision in respect of an Application, the BCMB may require the applicant to hold meetings in the area where the proposed Depot will be located in order that the public may obtain information from the applicant respecting the Application.

Purposes and scope of review

- 6.8. The review of an Application shall be conducted to determine whether the operation of the Depot will be in accordance with the Regulation, and the by-laws, bylaws, guidelines and policies established by the BCMB.
- 6.9. The decision whether or not to accept an Application and to issue a Permit is in the sole discretion of BCMB Management taking into account any criteria adopted for that purpose from time to time by the BCMB.

Circulation of proposed decision

- 6.10. Where the BCMB is considering a decision to issue a Permit, the BCMB may, before making a final decision, circulate the proposed decision or particulars of it for comment to the applicant, the

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persons who have provided concerns in writing to the BCMB concerning the Application and any other persons the BCMB considers appropriate.

Notice of Decision for New Permit

- 6.11. Where the BCMB issues a Permit the BCMB may provide or cause the permit holder to provide notice of the BCMB's decision within 15 days after the date the BCMB makes its decision:
- a. by publishing notice of the decision in a newspaper that has daily or weekly circulation in the area in which the depot that is the subject of the decision is or will be located; or
 - b. by any other means provided for by the BCMB.
- 6.12. A notice under section 6.11 shall contain:
- a. a description of the application made to the BCMB;
 - b. the name of the Permit Holder;
 - c. the location of the depot; and
 - d. the decision of the BCMB and the date of the decision.

7. Proximity Requirements for New Permits

- 7.1. No new Permit may be issued in a Metro or Urban Area for a Depot that will be located within a 3 kilometre radius of an existing and operating Depot.
- 7.2. No new Permit may be issued in a Rural Area for a Depot that will be located within a 24 kilometre driving distance by Public Road, of an existing and operating depot in a Rural Area, or within a 10 kilometre driving distance by Public Road of an existing and operating Depot in an Urban or Metro Area.
- 7.3. For the purposes of this section "Public Road" means a roadway as defined in the Traffic Safety Act, RSA 2000, c.T-6 as amended from time to time which roadway is designed for travel primarily or exclusively by motorized vehicles, but does not include a lane, alley or a dirt road.
- 7.4. Notwithstanding section 7.1 and section 7.2, in exceptional services, the Board, in its sole discretion, may allow BCMB Management to issue a new Depot Permit in a Metro, Urban or Rural Area that does not meet the proximity requirements set out in this section.

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8. Applications for Amendments of Permits

- 8.1. A Permit Holder may apply to amend, add or delete a term or condition of a Permit including the Depot location specified in that Permit.
- 8.2. If a Permit Holder wishes to apply to amend, add or delete a term or condition of a Permit, the Permit Holder shall complete an Application for Amendment in the form approved by the BCMB.

Notice of Application for Amendment

- 8.3. Where the BCMB receives an Application for Amendment from a Permit Holder the BCMB may, or may require the Permit Holder to, do one or both of the following:
 - a. publish notice of the Application for Amendment in one or more issues of a newspaper that has daily or weekly circulation in the area in which the depot that is the subject of the Application for Amendment is or will be located; and
 - b. provide notice of the Application for Amendment in the manner determined by the BCMB.
- 8.4. A notice under section 8.3 may contain the following:
 - a. the name of the Permit Holder;
 - b. a description of the Depot;
 - c. the location, nature of operation, capacity and size of the Depot to which the notice relates;
 - d. the nature of the amendment being sought;
 - e. a statement that a person who is directly affected by the Application for Amendment may submit written concerns to the BCMB within 30 days of the last notice made under section 8.3 with respect to the Application for Amendment, or within any longer period specified by the BCMB in the relevant notice;
 - f. the locations where information about the depot may be obtained or is available for public disclosure; and
 - g. any other information required by the BCMB.

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Circulation of Consideration of Application for Amendment

- 8.5. Where the BCMB is considering an Application for Amendment, the BCMB may before making a final decision, circulate the proposed decision or particulars of it for comment among the applicant or Permit Holder, the persons who have provided concerns in writing to the BCMB concerning the Application for Amendment and any other persons the BCMB considers appropriate.

Evaluation of Application for Amendment

- 8.6. Subject to section 8.7, the decision whether or not to grant an Application for Amendment is in the sole discretion of BCMB Management subject to the population and proximity requirements contained in this By-law.
- 8.7. Notwithstanding section 8.6, in exceptional circumstances, the Board may, in its sole discretion, allow BCMB Management to amend a Depot Permit even though the population and proximity requirements contained in this By-law have not been met.

Notice of Decision of Amendment to Permit

- 8.8. Where the BCMB amends, adds or deletes a term or condition of a Permit the BCMB may provide or cause the Permit Holder to provide notice of the BCMB's decision within 15 days after the date the BCMB makes its decision
- a. by publishing notice of the decision in a newspaper that has daily or weekly circulation in the area in which the Depot that is the subject of the decision is or will be located; or
 - b. by any other means provided for by the BCMB.
- 8.9. Where notice of an Application for Amendment was provided in accordance with section 8.3 and the BCMB issues an amended Permit the BCMB shall provide written notice of the decision or cause the Permit Holder to provide written notice of the BCMB's decision within 15 days after the date the BCMB makes its decision to every person who submitted written comments to the BCMB.
- 8.10. Where the BCMB refuses the Application for Amendment, the BCMB shall, within 15 days after the date it makes its decision, provide written notice of such refusal to the applicant.

9. Permit Transfers

- 9.1. A Depot Permit is not transferable.

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10. Applications for Renewal of Permits

Notice Requirements for Applications for Renewals

- 10.1. If a Permit Holder wishes to renew a Permit, the Permit Holder shall submit an Application for Renewal in the form approved by the BCMB.
- 10.2. The Application for Renewal of a Permit must be received by the BCMB no more than six months prior to the expiration of the term of that Permit, and no less than one month prior to the expiration of the term of that Permit.
- 10.3. Upon receipt of the Application for Renewal, the BCMB may request that the Permit Holder provide additional documentation, and the Permit Holder must provide the additional documentation requested.
- 10.4. Within 30 days after receiving the Application for Renewal and all information requested from the Permit Holder, the BCMB shall notify the Permit Holder whether or not the renewal is granted.
- 10.5. Whether or not to grant an Application for Renewal, and the length of time for which the Permit is renewed are both in the sole discretion of BCMB Management taking into account the criteria adopted for that purpose from time to time by the BCMB.
- 10.6. Notwithstanding section 10.5, if an Application for Renewal is granted, BCMB Management will not renew the Permit for a period of time exceeding 5 years from the expiration of the term of the Permit being renewed.

Failure of Permit Holder to Give Notice of Intention to Renew a Permit

- 10.7. If a Permit Holder fails to provide to the BCMB the Application for Renewal and any additional information requested by the BCMB pursuant to section 10.3, or if the renewal of the Permit is not granted, the Permit will expire at the conclusion of the existing term as long as the Permit Holder continues to comply with the terms and conditions of the Permit and with the Regulations and with all BCMB By-laws, bylaws, policies and guidelines for the balance of that term.

11. Compliance with Legislative and BCMB Requirements

- 11.1. In submitting an Application, an Application for Renewal or an Application for Amendment the applicant or the individual who signs on behalf of an incorporated entity acknowledges and agrees that the Permit Holder and any individual named pursuant to section 5.1.c. will abide by:
 - a. the Beverage Container Recycling Regulation;
 - b. the Beverage Container Management Board Administrative Bylaw;

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- c. the Beverage Container Management Board Administrative Compliance Bylaw;
- d. the Quality Control Progressive Action Policy;
- e. the Uniform Code of Accounts Compliance By-law; and
- f. the Service Agreement between the Alberta Bottle Depot Association and the Collection System Agent duly appointed under the Regulation.

and understands that all matters set out therein relating to Depot Permits and Applications, Applications for Renewal and Applications for Amendment will apply to the Permit Holder and any individual named pursuant to section 5.1.c, the Depot Permit application process, and the continued operation of a Depot as may be the case.

- 11.2. In submitting an Application, an Application for Renewal or an Application for Amendment the applicant or the individual who signs on behalf of an incorporated entity acknowledges and agrees that the applicant or the Permit Holder as the case may be is in compliance with all other requirements of all applicable legislation, municipal bylaws and other enactments, including:
- a. Environmental Protection and Enhancement Act;
 - b. Beverage Container Recycling Regulation 101/97;
 - c. Beverage Container Management Board Bylaws;
 - d. Beverage Container Management Board Operating Permit;
 - e. Municipal Bylaws;
 - f. Provincial Statutes;
 - g. Worker's Compensation Act;
 - h. Alberta Safety Codes Act;
 - i. Alberta Occupational Health and Safety Act;
 - j. Alberta Gaming and Liquor Commission Operating Guidelines;
 - k. Alberta Labour Standards; and
 - l. Any other applicable Federal, Provincial or Municipal legislation.