



Committee of the Whole Report

For the Meeting of December 9, 2021

To: Committee of the Whole **Date:** **November 30, 2021**
From: Kerri Moore, Head of Community & Business Relations
Karen Hoese, Director, Sustainable Planning & Community Development
Subject: Municipal Alcohol Policy Report

RECOMMENDATION

That Council direct staff to:

1. Apply the following directions as the basis for developing and implementing a municipal alcohol policy and procedures:
 - 1) Develop guidelines for the review and evaluation of liquor licence applications;
 - 2) Establish greater clarity and accountability for liquor licence terms of operation;
 - 3) Clarify and communicate the liquor licence review process to the community;
 - 4) Ensure revision of the Noise Bylaw effectively considers late night noise issues;
 - 5) Reaffirm terms of reference for Late Night Advisory Committee; and
 - 6) Streamline the local government referral process.
2. Adopt a streamlined approach for the review of LCRB referred liquor licence applications as outlined in Approach 4 of Section 6 of this report, to be implemented as part of the municipal alcohol policy.
3. Direct staff to engage with community stakeholders and report back to Council with a recommended municipal alcohol policy and procedures, and any resource implications associated with implementation.

EXECUTIVE SUMMARY

Council identified the development of a municipal alcohol policy as an action in the City's Strategic Plan. This initiative was intended to help ensure that the City supports the continuation of a vibrant hospitality sector, while addressing emerging issues between residential use and hospitality venues. The Responsible Hospitality Institute (RHI), a global leader in late night economy consulting, was contracted by the City to review and provide recommendations on policy, operational, and regulatory strategies for mitigating issues and improving Victoria's late-night economy. RHI subsequently conducted engagement with stakeholders and presented a report on their findings including final session held with City staff to review their recommendations.

Based on RHI's suggestions and staff's consideration of approaches that would most effectively serve the City at this time, several options were identified for further development. Staff believe these options can be developed to form a suite of policy, procedural improvements, and guidelines that will improve planning, management and overall outcomes with regards to the future of the hospitality sector.

PURPOSE

The purpose of this report is to provide Council with information and analysis, and to confirm key directions for developing a municipal alcohol policy as directed through the Strategic Plan 2019-2022.

The proposed directions are intended to help address emerging issues and improve overall management of the late night economy. These relate primarily to mitigating potential noise and activity impacts associated with hospitality-related uses such as drinking establishments and restaurants, especially when located near residential developments. The proposed municipal alcohol policy will also provide consideration for safety and transportation while ensuring the late night economy remains vibrant.

BACKGROUND

Late Night Strategy

The Mayor's Late Night Task Force was initiated in 2009 in response to issues with transportation and disorder occurring at that time. Several recommendations were made and following a pilot period, were implemented as a program in 2010. This included direct funding for four special duty VicPD patrol officers, supervised late night taxi stands, a portable urinal program and support for other supporting initiatives, such as signage to encourage bar patrons to respect residences. A Multi-agency Task Force (MATF) was also initiated to conduct late night tours on a quarterly basis. The MATF team observes late conditions in the public realm and at venues, and shares information amongst participating agencies.

Late Night Advisory Committee

The Late Night Advisory Committee (LNAC) was established through the Late Night Task Force to help support a safe, functional and vibrant downtown hospitality area. It includes representatives of the Victoria Downtown Residents Association, BC Restaurant and Food Association, Victoria Hotel Association, Downtown Victoria Business Association, Liquor and Cannabis Regulation Branch (LCRB), VicPD, hospitality venues, Island Health and the City (Arts, Culture & Events recently added). The committee meets quarterly to review conditions and provide any input on City late night program activities. If the committee has recommendations that require actions that are outside the scope of the late night program, resolutions are approved by the committee and directed to Council via their liaison on the committee.

Strategic Plan

The Late Night Advisory Committee identified increasing issues between hospitality venues and the growing number of residential developments, primarily in the downtown. Like other cities, Victoria permits both residential and commercial uses such as restaurants and drinking establishments throughout the downtown. Victoria's city centre is compact with residential developments locating near hospitality venues. Expectations of arriving residents are often not consistent with a late night hospitality area serving 40,000 students, a metropolitan area of

400,000 and a strong tourism market. This need to manage “... interface conditions and (develop) strategies to mitigate conflict between residential development and bars, nightclubs and restaurants” was also identified in the Downtown Core Area Plan (DCAP).

In addition to an unclear understanding of expected conditions, other issues were noted by the committee:

- Lack of effective noise bylaw provisions for monitoring and enforcement
- Emerging concentrations of licensed seats at later hours creating disorder and safety concerns in the public realm
- Ineffective liquor licence terms and conditions to address residential impacts and public disorder
- Absence of policy and guidelines to support the liquor licence application process
- Lack of advanced planning to incorporate structural mitigation of impacts between residents and hospitality venues

While observed conditions did not represent a crisis *per se*, the committee believed that these issues would continue to grow and that it would be prudent to recommend policies and procedures be developed to ensure that late night hospitality areas would flourish and continue to coexist with residential land uses. In 2018, a recommendation to this effect was made to Council and subsequently adopted in the City’s Strategic Plan, specifically to “...develop a municipal alcohol policy to address concerns brought forward by the Late Night Advisory Committee.”

Responsible Hospitality Institute

To assist in considering approaches to developing policy, the City contracted the RHI, an internationally recognized consulting organization specializing in best practices in the management of late night hospitality districts. RHI was to review Victoria’s late night economy and make recommendations for policy and management directions that would establish a firm foundation for a harmonious and vibrant hospitality sector. RHI examined existing policies and held several focus groups with stakeholders (e.g., Late Night Advisory Committee, hospitality venue operators, Music Advisory Committee). In 2019, RHI submitted a report (Appendix A) and subsequently met with staff to present and review the suggested directions.

Victoria Music Strategy

Live music was identified by RHI as a key driver for late night economies and many cities have adopted this as a strategy for growth of the sector. Victoria recently adopted the Victoria Music Strategy that describes live music’s importance and identified ways that it could be better supported. This included considerations for reduced barriers and expanded hours for licensed music venues, and greater responsibility for sound mitigation on new developments located near music venues.

ISSUES & ANALYSIS

Based on a review of RHI’s report and consideration for its applicability in Victoria’s context, staff have identified the following directions which they believe would provide the most effective basis for developing a municipal alcohol policy and procedures to improve licensing, and operation of hospitality venues.

1. Develop guidelines for the review and evaluation of liquor licence applications.

The City of Victoria currently does not have sufficient policies or guidelines to support the review of liquor licence applications that are referred to City by the LCRB. Staff propose to develop city-wide liquor licence application guidelines in consultation with key stakeholders and the community. The proposed policy and guidelines would be structured to consider and address key aspects related to geographic location, surrounding context, scale, type and concentration of hospitality establishments when considering Provincial licence referrals corresponding terms and conditions for outdoor patios, hours of operation and seating capacity.

It is anticipated that the policy and guidelines will recognize that hospitality establishments are generally located within the downtown area, as well as along commercial corridors and within urban villages and town centres throughout Victoria. This will provide a clear direction to residents and business owners in various geographic locations, especially in the downtown area where it will also inform appropriate measures to support the safety and vitality of the hospitality sector.

The policy and guidelines will therefore function as an important resource for business owners who are proposing changes to an existing business or establishing a new business. Residential developers may choose to incorporate additional structural elements to enhance sound mitigation, depending on location. The guidelines will also provide key information to guide the review and evaluation of liquor licence applications by staff and Council.

Considerations

- Ensure the policy and guidelines consider the City's Music Strategy and Create Victoria plan

2. Establish greater clarity and accountability for liquor licence terms of operation.

Consideration for impacts to neighbours and management of adjacent public space are requirements of liquor licensees as described in the provincial legislation and the LCRB licence handbooks. However, appropriate mitigation strategies are not always captured in the terms and conditions of licences. Efforts by licensees to manage issues can therefore be incremental and inconsistent, thereby presenting ongoing unresolved issues.

LCRB's enforcement priorities are generally related to over-service, under-aged service and over-capacity of venues. Community impact provisions are often less definitive and more challenging for enforcement. LCRB does however, have enforcement mechanisms available to them, as well as the authority to amend licence terms and conditions where and when necessary.

Staff have been exploring opportunities to work more closely with LCRB in improving the terms and conditions of liquor licences as they relate to local government concerns. Staff believe that this should continue to be developed before other mechanisms are pursued, such as introducing stronger provisions under City business licencing.

Considerations

- Collaborate with LCRB to develop more responsive, effective provisions for licence compliance or revise City business licence terms and assess supporting resource implications
- Ensure clarity of expectations and responsibilities for venue operators
- Clarify responsibilities for public safety and disturbance issues *outside* venue operators'

responsibility (e.g., VicPD)

3. Clarify and communicate the liquor licence review process to the community.

RHI suggested that the liquor licence review process and decision-making criteria should be clarified and made more transparent to residents, developers and licence applicants. They pointed to an absence of communication materials and the benefits of having a point of contact at the City for information on liquor licence approvals. In tandem with an improved process, better communication would ensure that the City's goals and criteria in considering licence approvals are broadly understood well in advance of application for a liquor licence.

Considerations

- Ensure appropriate dissemination of information
- Consider supporting resource implications

4. Ensure revision of the Noise Bylaw effectively considers late night noise issues.

Noise issues are the primary impact of hospitality venues on nearby residents. The City and LCRB have licensed hospitality businesses to operate until up to 2:00am and sounds from venues and the streets will occur until at least that time. Residents may therefore be subjected to noise that impacts them that cannot be mitigated through their own actions (e.g. closing windows).

The current Noise Bylaw presents challenges for City staff when responding to complaints. The sound often occurs late at night when staff services are not available and otherwise warranted. Staff must go to the complainant's residence to measure sound level at the "point of reception" and often the noise level does not contravene thresholds stipulated in the bylaw. Should the problem reoccur, the process must be repeated, all of which causes frustration on the part of the complainant.

Council has directed staff to investigate options to address noise issues relating to hospitality venues through the Noise Bylaw review process and present these through a separate report to Council.

Considerations

- Ensure revised Noise Bylaw provisions support practical and efficient means of monitoring and enforcement

5. Reaffirm terms of reference for Late Night Advisory Committee.

The LNAC includes broad representation and meets quarterly to review late night conditions and the related City program that emanated from the Late Night Task Force in 2009. Terms provided for the committee at that time were to:

- Establish (a) Late Night Great Night Victoria Coordination Committee
- Partner (with the) Downtown Victoria Business Association, hospitality industry, City and other stakeholders to leverage expertise and resources
- Work toward (a) sustainable evening and late night economy
- (Act as a) catalyst for new initiatives to create and promote the "Late Night, Great Night vision.

Committee recommendations for initiatives and actions beyond the terms of the program and resources allocated by Council have been directed to Council via their liaison on the committee (e.g., request for late night bus service). RHI suggested that the role of committee could be elevated to provide greater leadership and prominence to the late night economy amongst other sectors. However, they also observed that there did not appear to be motivating conditions for doing so at this time.

Staff recommend the Late Night Advisory Committee terms of reference be reaffirmed by Council to ensure that its mandate and outputs are consistent with overall expectations. Considerations for committee membership, meeting frequency and resources should be appropriate for fulfilling its role. LNAC may continue to make recommendations to Council based on Council's referrals and/or other relevant subject areas where improvements to the late night hospitality economy can be made. These may include support for vulnerable patrons, enhancements to overall security, further development of transportation options and support for the Victoria Music Strategy.

Considerations

- Ensure committee membership supports mandate and objectives of committee
- Ensure meeting frequency and effort of committee match expectations and need

6. Streamline the local government referral process.

Liquor Licensing is under the jurisdiction of the Provincial government and is regulated by the LCRB under authority of the Liquor Control and Licensing Act. As part of the provincial licensing process, LCRB refers liquor licence applications to local government to provide an opportunity for municipalities to gather public feedback and assess applications in terms of noise and community impacts. The results of that assessment are communicated to LCRB through a Council resolution that indicates support, conditional support or non-support for applications.

At the City of Victoria, liquor licence application referrals are processed by the Chief Building Official. The process includes coordination of a multi-departmental staff review and a public notification process, and the recommended resolution is then reported to Council for consideration.

The process is applied to all LCRB referrals except those that the City opts out of under policy. Under current City policy, the City opts out of referrals for:

- Liquor Primary licences and lounge endorsements for manufacturers licences with less than 31 people that close before 10pm
- Patron Participation entertainment endorsements for Food Primary licences where they close at or before 12am (under provincial legislation, Food Primary applications for venues closing after midnight or that request a patron participation entertainment endorsement are referred to local government).

In previous years, LCRB referral volumes were approximately 10 applications per year; however, in 2021, 25 referrals have been received to date. The processing of liquor licence application referrals represents an increasingly significant draw on staff time. As a result, the referral process requires resources that exceed staff capacity and detract from other divisional priorities in Permits and Inspections. Creation of municipal alcohol policy provides the opportunity to consider streamlining the referral process, which could help to mitigate resourcing impacts.

Provincial legislation provides the following three options for local governments to process liquor licence application referrals:

1. Delegate authority to staff to provide a resolution on behalf of Council
2. Provide a Council resolution
3. Opt out of the referral process

These referral options may be used in combination or individually at the municipality's discretion. The following outlines potential alternative approaches for using these referral options for the review and evaluation of liquor licence applications, and highlights resource requirements and other considerations associated with each. Development of the municipal alcohol policy and guidelines will be informed by the chosen approach and will guide staff decisions and recommendations to Council.

Approach 1 – Develop policy that continues the current approach of referring liquor licence applications to Council to provide a resolution to LCRB.

Under this approach, Council retains the current liquor licensing referral process and staff continue to prepare reports with recommendations for all applications.

Considerations

- Staff recommendations to Council would be based on assessing the applications and public feedback consistently with the municipal alcohol policy and Council would retain discretion in providing a resolution to the LCRB.
- The public would have the opportunity to respond to the application notification as well as to provide written commentary to Council members at Committee of the Whole.
- This approach would provide applicants with the highest level of certainty when developing their business plans in alignment with the municipal alcohol policy.
- This approach does not reduce administrative complexity or timelines associated with the municipal referral process and is the most resource intensive approach (the current volume of application requires approximately 2.5 working days for each application or 65 days/year (0.25 FTE) plus the associated Council process).

Approach 2 – Develop policy that utilizes the option to delegate authority to staff.

This approach would delegate authority to staff, for all liquor licence applications, to provide a resolution to the LCRB on Council's behalf.

Considerations

- With the delegation of authority to staff to provide a resolution to the LCRB directly, Council would no longer consider liquor licence application.
- The process would continue to mirror the current referral approach in terms of the review process and public consultation. The municipal alcohol policy would guide departmental analysis of applications and result in consistent advice to the LCRB that supports City objectives.
- The public would have the opportunity to provide feedback in response to the application notification.
- This approach would provide applicants with the highest level of certainty when developing their business plans in alignment with the municipal alcohol policy.
- This approach would reduce administrative complexity and timelines associated with the municipal referral process.

- As this would eliminate Council review of applications and staff decision-making would be based on the Council-approved municipal alcohol policy, it is anticipated that this approach would result in a moderate reduction of staff resourcing needs.
- Delegation of this authority would be by bylaw and requires Council approval.

Approach 3 – Develop policy where the City opts out of providing a resolution to the LCRB.

Under this approach the City would opt out of each liquor licence application conditional to it meeting the municipal alcohol policy and/or other new or existing regulations that pertain to liquor licenses. When a municipality opts out, the LCRB conducts the public consultation process.

Considerations

- When a municipality opts out of providing a resolution to the LCRB, staff still receive the applications from the LCRB to confirm compliance of each application with municipal policies as they pertain to liquor licences. Such policies may address hours of operation, occupant loads, and other operational aspects to ensure community needs are met.
- All public consultation would be conducted by the LCRB.
- The approach of opting out of the provincial referral process would provide a streamlined approval process for applicants.
- This approach reduces (but does not eliminate) the need for dedicated staff to review applications and may require an initial investment in additional resources to undertake additional policy work beyond the municipal alcohol policy.

Approach 4 – Develop policy that utilizes all three referral options. (Recommended)

This approach identifies low risk LCRB applications that the City would opt out of, medium risk applications that would be delegated to staff, and higher risk applications that Council would consider.

Considerations

- This approach, which would use all three referral options permitted by provincial legislation, would consider the amount of risk involved with various types of applications to determine which option would best meet City objectives and community needs.
- Recommendations and decision-making would be based on the Council-approved municipal alcohol policy.
- Level of consultation and would be based on whether the application falls within a low, medium or high risk category, as determined through the development of the municipal alcohol policy (e.g hours of operation, occupancy).
- The approach provides high certainty for business owners when developing their business plans in alignment with the municipal alcohol policy.
- Depending on the structure of the policy, this approach has potential to reduce the time required by staff to review, evaluate and report to Council on liquor licence application referrals.

OPTIONS & IMPACTS

Option 1 (Recommended):

That Council direct staff to:

3. Apply the following directions as the basis for developing and implementing a municipal alcohol policy and procedures:
 - 1) Develop guidelines for the review and evaluation of liquor licence applications;
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 - 3) Clarify and communicate the liquor licence review process to the community;
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 - 5) Reaffirm terms of reference for Late Night Advisory Committee; and
 - 6) Streamline the local government referral process.
4. Adopt a streamlined approach for the review of LCRB referred liquor licence applications as outlined in Approach 4 of Section 6 of this report, to be implemented as part of the municipal alcohol policy.
4. Direct staff to engage with community stakeholders and report back to Council with a recommended municipal alcohol policy and procedures, and any resource implications associated with implementation.

Resource Impacts

Given the suggested directions, the following potential impacts are identified:

- Costs for supporting additional business licence terms and conditions noted in the discussion of 1(2) above, should increase collaboration with LCRB not address issues.
- Costs for supporting resources required as part of the referral process.

Option 2: Council provide direction on any or all the above recommendations.

Accessibility Impact Statement

Hospitality accessibility issues are generally not unique to the late night economy and accessibility concerns are generally addressed outside of a late night lens. An audit of late night venues may be pursued as part of the late night program.

2019 – 2022 Strategic Plan

Strong Liveable Neighbourhoods: “Develop a Municipal Alcohol Policy to address concerns brought forward by the Late Night Advisory Committee”

Impacts to Financial Plan

The financial impacts will depend on Council’s direction and will be presented with the final report on the Municipal Alcohol Policy.

Official Community Plan Consistency Statement

In its “vision in the citywide context”, the Neighbourhood Directions section of the Official Community Plan identifies the Downtown as the “... cultural, employment, business and entertainment heart of the Capital Region.”

The Economy section includes a broad objective (14.f) that the “...function of the Urban Core as the primary regional centre of employment, learning, arts, culture, entertainment, recreation and specialty retail is maintained and enhanced with high quality facilities, services and events.”

In its broad objectives, the Arts and Culture section includes that “...the urban core remains the

primary centre for the arts and culture in the Capital Region.”

Downtown Core Area Consistency Statement

The Downtown Core Area Plan includes the following section on Entertainment and Special Events:

9.27. Establish a management strategy to support and enhance the downtown evening and late night economy that addresses:

- 9.27.1. Initiatives to maintain downtown as the primary entertainment district for Greater Victoria.
- 9.27.2. Initiatives to manage and mitigate issues of public disorder.
- 9.27.3. Locational criteria and development standards for new entertainment-related uses.
- 9.27.4. Strategies to encourage the provision of a broader range of entertainment venues for varying ages and interests.
- 9.27.5. Interface conditions and strategies to mitigate conflict between residential development and bars, nightclubs and restaurants.

CONCLUSIONS

This report outlines policy directions towards improving planning, management and overall outcomes for a vibrant and safe hospitality area where various land uses effectively coexist. It draws from the recommendations of the Responsible Hospitality Institute and broad input from City staff. Should Council approve these recommendations, staff will engage with stakeholders and prepare final recommendations for the municipal alcohol policy and procedures.

Respectfully submitted,

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Report accepted and recommended by the City Manager.

List of Attachments

Appendix A: Responsible Hospitality Institute Victoria Report