



Committee of the Whole Report

For the Meeting of October 5, 2017

To: Committee of the Whole **Date:** September 8, 2017
From: Jonathan Tinney – Sustainable Planning and Community Development Director
Subject: Liquor Licensing Bylaw and Policy Review

RECOMMENDATION

1. That Council approve the draft Liquor Licence Policy (Attachment 1).
2. That Council direct staff to,
 - a. bring forward the Business Licence Bylaw to remove conditions to enter into a Good Neighbour Agreements and return to Council for first reading no later than November 3, 2017;
 - b. introduce a new education program for existing and new businesses to learn about City bylaws and policies that impact their operations through information dissemination during the business licence application/renewal process and have information readily available on the Victoria.ca website; and
 - c. work with the Victoria Police Service and the Provincial Government to develop business-specific Good Neighbour Agreements for those establishments where on-going issues and concerns have been raised.
 - d. bring forward the Liquor Licensing Fee Bylaw for introductory readings on October 12, 2017

PURPOSE

The purpose of this report is to present the amended Liquor Licensing Fee Bylaw for first, second and third reading, as well as provide Council with information on the implications and opportunities of creating new requirements for *Good Neighbour Agreements* with all Food Primary Establishments that are open after midnight and directly adjacent to residential properties. This report also provides additional information, analysis and recommendations regarding existing Good Neighbour Agreements for Liquor Primary Establishments in Victoria.

BACKGROUND

In January of 2017, the Liquor Control and Licencing Branch of the Government of British Columbia announced changes to the existing provincial legislation to reduce red tape, create new opportunities for businesses, increase convenience for consumers, and enhance commitment to social responsibility. Based on these changes, staff brought forward the following recommendations on May 25, 2017 to streamline current fee structure and policy as outlined below.

1. Communicate to the Liquor Control and Licencing Branch (LCLB) that the City of Victoria will continue to receive all Liquor Licence applications, however, staff will, on Council's behalf, "opt out" of providing comments for the following types of applications:
 - a. Liquor Primary with licensed service up to 10:00 pm and having an occupant load less than 31 persons.
 - b. Manufacturer with Lounge Endorsement, Special Event Area, or Picnic Area with licensed service up to 10:00 pm and having an occupant load less than 31 persons.
 - c. An extension to hours of licensed service for all licence types up to 3:00 am on New Year's Eve.
 - d. The addition of an Entertainment Endorsement to any Food Primary with licensed service up to 12:00 am.
2. Direct staff to update the Liquor Licencing Fee Bylaw and return to Council for first reading no later than July 30, 2017 to:
 - a. Introduce an Application Fee of \$200 for receiving the application types listed in 1 above that are referred to the City by LCLB.
 - b. Consolidate the current two step fee into one \$750 fee, which includes public notification costs, for application types requiring a Council resolution.
 - c. Remove the fee of \$25 for a staff assessment of a special occasion liquor licence as it is unnecessary due to current LCLB process.
 - d. Maintain the fee of \$40 for a staff assessment of licence applications for a temporary change to a liquor licenses' terms and conditions.
3. Set the public notification radius to 100 metres and maintain the notification period of 30 days.

Council provided the additional direction that staff report back on the implications and opportunities of creating Good Neighbour Agreements with all Food Primaries open after midnight, directly adjacent to residential properties.

A draft policy and fee schedule that incorporates direction from items 1-3 above is included. The policy is Attachment 1 and the amended draft Liquor Licencing Fee Bylaw is Attachment 2.

Based on Council direction to examine the implications and opportunities for implementing a requirement for Good Neighbour Agreements with all Food Primary Establishments open after midnight, City staff have taken a more broad approach to assessing the current state of all current Good Neighbour Agreements as outlined in the Issues and Analysis section of this report.

ISSUES & ANALYSIS

Current State – Liquor Primary Establishments

The current requirement for entering into a Good Neighbour Agreement is contained in the Business Licence Bylaw (89-071) for all Liquor Primary Establishments, including a standard agreement template (Attachment 3). Staff have assessed the current requirements of the agreements and have noted duplication with other bylaws currently in place, such as the Noise Bylaw. In other cases some of the clauses are either out of date or in conflict with current provincial legislation (eg. patrons are not allowed to carry open beverages and reference to persons that are intoxicated) and/or include items that are a provincial enforcement responsibility such as ensuring patrons are at least 19 years of age and have identification. Under the current practice, all new Good Neighbour Agreements are to be signed by the following authorities as part of the application process for a business licence from the City:

- Business owner(s)
- Mayor
- Corporate Administrator
- Victoria Police Department

Also within the current agreements is a requirement for the business owners and the Victoria Police to meet on an annual basis to review any issues and concerns. Generally this has not been undertaken unless issues are arising as previously noted in an update report provided to Council in June 2016 on the Downtown Late Night Program.

Currently, there are 124 Liquor Primary Establishments within the City of Victoria, 85 of which have a Good Neighbour Agreement. Almost 71% of the current agreements were put in place in 2008 during a period of time that greater concern existed over excessive public intoxication and the social and health implications associated with alcohol, noise and disruption in the downtown core. In 2009, the Late Night Great Night Task Force Working Group was formed to create a cohesive strategy to ensure the City of Victoria maintains a vibrant downtown core that balances the needs of local businesses, residents, visitors, and late night entertainment users. Currently, there is a Late Night Advisory Committee consisting of the Downtown Victoria Business Association the LCLB, the Victoria Hotel Association and Restaurant Association, that meets regularly. Additionally, a Multi-Agency Task force conducts downtown walking tours on a quarterly basis to assess issues with specific establishments. This task force includes staff from Engagement, Fire, Bylaw Services, LCLB and the Vancouver Island Health Association.

Current State – Food Primary Establishments

Within the City of Victoria, there are currently 148 Food Primary Establishments that that are open after midnight.

Assessment Findings

A number of municipalities in British Columbia, such Nanaimo and Surrey, have Good Neighbour Agreements associated with business licences similar to those in Victoria. Generally, the Agreements are used to educate new business owners on operating requirements and in some cases, used by Bylaw Services as a basis to start discussions on complaints. However, the Agreements are not an effective or relied upon tool of bylaw enforcement because arising issues and the resulting enforcement are done through ticketing. For example, noise related issues are enforced through the noise bylaw and activities deemed to be in contravention of provincial liquor legislation is dealt with by LCLB with their own enforcement tools. The GNA's do not fill any void in enforcement abilities.

City of Victoria staff have looked at the current use of Good Neighbour Agreements from a number of lenses to assess the value of the Agreements, in terms of the merits of continuing to require these agreements for Liquor Primary Establishment, as well as expanding to Food Primary Establishments that serve alcohol after midnight. Key findings include:

- Liquor and food establishments generally have a high rate of compliance with legal requirements; when enforcement is required, tools of enforcements are used.
- The Agreements blur the line between local and provincial government authority; instead, the City could work more collaboratively with LCBC and Vic PD to identify the few businesses where operators are known to be outside the parameters of responsible operation rather than create additional process and red tape for all businesses.
- The list of signatories to the current Agreements implies a higher level of importance as a tool for enforcements and the expectations would be unrealistic. As a tool to promote good relationships between neighbours, it would be more realistic for the Agreements to be established between neighbours under the City's direction in response to known issues rather than a blanket requirements applied to all businesses. In some exceptional cases, they may be relied upon for enforcement action.
- The current Agreements require an annual meeting between the Business Owner and Victoria circumstances, the City may also be a signatory as assessed on a case by case basis.
- The tools of enforcement exist within LCLB legislation, land use bylaws, noise bylaws, and policing powers. Reiteration of the existing responsibilities through the Agreements does nothing to strengthen their applicability.
- Police; this is time consuming and if it were to be implemented consistently, it is estimated that each meeting would use up approximately 4 hours of staff time to set up and hold the annual meeting, documenting agreement, filing etc. $(124 \text{ LP} + 148 \text{ FP}) \times 5 = 1088 \text{ hours}$, 155 working days or 0.75 FTE (these are estimates)
- The current approach assumes a critical level of non-compliance; the reality is that the majority of owners and operators are responsible and generate few issues related to irresponsible service of alcohol. Good Neighbour Agreements would be a more purposeful and effective tool if used in response to issues with specific operators such as when issues arise through the Inter-Agency Task Force.
- The current approach to incorporating Good Neighbour Agreements as a blanket requirement can be seen as unnecessary bureaucratic process for businesses with little value; this is contrary to the Strategic Plan Objective to "Strive for Excellence in Planning and Land Use"

OPTIONS & IMPACTS

Based on the staff assessment and analysis of the current state of Good Neighbour Agreements, three options have been assessed by staff for Council consideration:

Option 1 (recommended): Eliminate the mandatory requirement of Good Neighbour Agreements as part of the Business Licence Bylaw (including no extension to Food Primary Establishments). Update the agreements to be current in all respects and requiring only the signature of the property owner, the operator and the adjacent neighbour(s). The requirement would be replaced with an option for staff to require completion of the updated agreement between required signatories and adjacent neighbours regardless of occupancy.

Description: This option relies on mechanisms that are currently in place through the Great Night Late Night initiative such as the task force that are more conducive to changing negative behaviours by targeting those establishments where re-occurring issues are arising. Additionally, in those cases where there are issues, Good Neighbour Agreements with those establishments can be created on a case by case basis (including annual review mechanisms that will be evaluated upon business licence renewal).

Option 2: Maintain current requirements for a Good Neighbour Agreement for all Liquor Primary Establishments with modernized terms and conditions for new businesses.

Description: This option looks at updating the current Agreement terms and conditions to reflect the current legislative requirements and to be signed by new businesses only on a go forward basis (i.e. new businesses). This option would exclude the need for an annual review of the Agreement as this would result in significant staffing costs (0.5-0.75 FTE) with little benefit.

Option 3: Expand the Good Neighbour Agreements to include Food Primary Establishments that serve alcohol after midnight.

Description: Similar to Option 2, this option would see an update of the current agreement, and an expansion to other Food Primary Establishments.

Based on the staff assessment of the different options, Option #1 is recommended for a number of reasons:

- Good Neighbour Agreements are not an effective mechanism of bylaw enforcement.
- Elimination of the requirements for GNAs would result in slight efficiencies in the business licensing process.
- The Agreements assume critical levels of non-compliance, when in reality, there are less than ten establishments that are generally problematic – efforts and resources can be targeted at those establishments for enforcement related to known issues.
- Focused use of an updated Good Neighbour Agreement in conjunction with additional enforcement will emphasize the seriousness of the non-compliance and reinforce the importance that the City puts on respectful behaviour between neighbours and the community.
- The scope of the establishments that the Multi-Agency Task Force surveys/monitors can be expanded to Food Primary Establishments.

Accessibility Impact Statement

No impacts to accessibility are anticipated as a result of this policy and bylaw recommendations contained in this report.

2015 – 2018 Strategic Plan

The proposed policy direction contained in this report supports two Strategic Plan objectives:

1. Facilitate Social Inclusion and Community Wellness - Review the Liquor License Policy to support neighbourhood livability.
2. Strive for Excellence in Planning and Land Use – Reduction of unnecessary process and promotion of effective and focused use of staff resources.

Impacts to Financial Plan

It is expected that there will be no impact on the Financial Plan. The consolidation of the current two-step fee for liquor applications into one \$750 application fee is expected to be revenue neutral. The introduction of the \$200 application fee for applications in which the City would opt-out of is again expected to be revenue neutral as the \$200 fee is reflective of the reduced process. The current fee of \$40 for temporary changes to an existing licence will remain the same. Staff will monitor application fee revenues throughout 2017 and adjust forecasts in future financial plans if required.

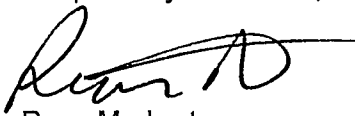
Official Community Plan Consistency Statement

The Official Community Plan does not specifically address liquor licencing.

CONCLUSIONS

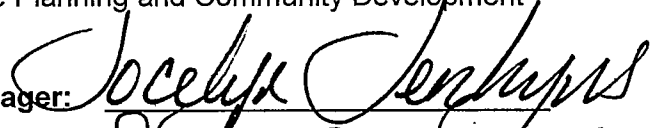
Staff acknowledge that this report recommends changes to a larger scope than that requested by Council, however in the spirit of reducing unnecessary processes to reduce staff workload and promote business development, staff recommend support for the removal of the mandatory requirement for a Good Neighbour Agreement as detailed in Option 1.

Respectfully submitted,


Ryan Morhart
Permits and Inspection Manager


Jonathan Tinney
Sustainable Planning and Community Development

Report accepted and recommended by the City Manager:


Date: Sept. 29, 2017

List of Attachments

- Attachment 1: Draft Liquor Licensing Policy
- Attachment 2: Draft Amended Liquor Licensing Fee Bylaw
- Attachment 3: Schedule B: Liquor Primary Good Neighbour Agreement