



## Committee of the Whole Report For the Meeting of May 25, 2017

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**To:** Committee of the Whole **Date:** May 16, 2017  
**From:** Jonathan Tinney, Director of Sustainable Planning and Community Development  
**Subject:** Liquor Policy Review

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### RECOMMENDATION

That Council approve the Liquor Licencing Policy (Attachment 1), including the following direction:

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 \$25.00 for a staff assessment of a special occasion liquor licence as it is unnecessary due to current LCLB process.
  - d. Maintain the fee of \$40.00 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.

## **EXECUTIVE SUMMARY**

This report responds to recent provincial legislation changes to the Liquor Control and Licencing Act to reduce red tape, create new opportunities for businesses, increase convenience for consumers and enhance commitment to social responsibility. Staff are recommending changes to streamline the City's involvement in approval processes, a simplified fee structure, alignment of operational hours for Food Primary and Liquor Primary Establishments, as well as consider extended hours of service under special circumstances.

## **PURPOSE**

Recent provincial Liquor Control and Licencing legislation changes have created a need for a review and re-alignment of the City of Victoria's commenting process as it relates to current LCLB licensing options. This response includes staff recommendations for a streamlined approach to liquor license approvals for all types of applications, as well as policy and fee updates to align with the new provincial regulations and Council priorities.

## **BACKGROUND**

The Liquor Control and Licencing Branch completed a Liquor Policy Review in late 2016, which included 73 recommendations to update 'antiquated laws', as well reduce red tape. The purpose of the review was to create new opportunities for businesses, increase convenience for consumers and enhance commitment to social responsibility. This resulted in a number of changes that came into effect on January 23, 2017.

Highlights of the new regulations include the following:

- Any business can apply for a liquor primary licence, except for businesses that operate out of a motor vehicle or are primarily directed at minors. This could include barber shops, art galleries, retail businesses, movie theatres and funeral homes;
- Manufacturers, such as wineries, breweries and distilleries, can apply to add a lounge endorsements, special event areas or picnic areas to their liquor license;
- New options for local governments to 'Opt Out' from providing comments on certain applications;
- Greater operational flexibility for businesses through the ability to have overlapping areas of for food primary and liquor primary licenses; and
- Provisions for businesses to extend hours to serve liquor under exceptional circumstances.

Since the legislative changes were introduced earlier this year, some small businesses have started to show an interest in extending their service offerings to include liquor. As of May 15, 2017 approximately four inquiries and one application have been received.

In June of 2003, the City of Victoria adopted a Liquor Primary Licencing Policy that reflected review and comment requirements of the previous legislation. This policy is now out of date and requires revisions to reflect current Council direction.

In May 2007, Council passed a motion regarding all liquor establishments and within that, Liquor Primary establishments were to be considered for hours of service up until 2:00 am. Council also determined that Food Primary establishments would be considered until 1:00 am on Friday's and Saturday's only and midnight otherwise. This is the primary direction provide at the time and exists as the current policy referred to in consideration of liquor licence application.

In addition, the Council motion also indicated that an extension to hours of service to 3:00 am for Liquor Primaries on New Year's Eve would be supportable.

## ISSUES & ANALYSIS

In keeping with the spirit and intent of the liquor policy review for red tape reduction, staff have taken a risk based approach to assess the legislative changes, and the role of Council and City staff in reviewing applications. A description of potential issues and analysis of the new legislation and its impacts on the City of Victoria are outlined below.

### 1. *Liquor Licencing Governance and Approval Process*

The Liquor Control and Licencing Branch (LCLB) has changed legislation affecting the way local governments opt-out and there is now provision for delegated authority for comment instead of Council resolution. The tape-cutting changes allow local governments to create policy that saves time and cost to the benefit of both the applicant and local governments for simple, low-risk applications. Local governments can opt out or delegate authority on all or some applications at their own discretion thus providing tools for council to direct effective use of their own as well as staff resources. Local governments would identify which set of applications they choose to opt-out of, those they wish to delegate and those that would require a council resolution.

The proposal is to opt-out of those applications identified as low-risk and continue with existing process for the remainder of applications; the use of delegated authority is not being explored at this time.

### 2. *Liquor License Application Intake Process and Fees*

The current fee structure requires businesses to pay fees in two parts for licence applications. The time span between the first and second payment is typically around two weeks with the second payment following staff review of the application. The benefit coming from deferred payments in this case is minimal as it only defers payment by two weeks and results in an additional trip to City Hall to make the payment. Additionally, Council liquor policy has been clearly outlined and communicated to staff so very few applicants opt out of the process after the initial staff review. Consolidation of the two part payment reduces City process and travel time for the applicant. The overall payment is proposed to remain the same at \$750 and would also include any cost related to public notification.

As proposed, for those types of applications meeting the conditions in which Council has chosen to opt out, an application fee of \$200 is proposed to reflect the associated staff time, records retention as well as provide contribution to the overall licence review regime.

### 3. *Public Notification*

The current public notification practice is based on standards for other types of municipal applications such as rezoning applications or similar where a public meeting is part of the process. Where local government does not opt-out, public notification is mandatory. The methods of public notification are up to the local government and might include newspaper ads, mail-outs, general notices, etc.

Given the opportunity to re-visit the process for City review of liquor licence applications, it is timely that the City introduce a standardized process for public notification for all types of liquor licence applications that specifically addresses issues and risk associated with the liquor licence applications.

## OPTIONS & IMPACTS

Changes proposed in this report impact applications in two key areas, the first generally described is a reduction in process and complication through simplifications to fee structure and setting public notification standards specific to the need and risk associated with liquor applications. The second is to low-risk applications being identified and that these types of applications be exempt from a public notification process, which is more appropriate to high-risk applications. This risk based approach is to the benefit of both the City and the applicant as efforts and focus are direct at those applications requiring a higher level of scrutiny.

The number of businesses that will take advantage of the modernized provincial liquor regulations in the short and long term is unknown. However, removing process for low-risk applications supports the intended benefits of provincial direction to stimulate innovation and create operational flexibility for businesses. Since the changes came into effect at the beginning of 2017, inquiries made about the new licencing opportunities have resulted in one application and the remaining four have not returned to make application. It would be reasonable to conclude that businesses did not follow through to application, in large part, due to complexity in process, licencing costs and uncertainty for approval after enduring process and covering the expense of applications. The provincial licencing application cost for all businesses is approximately \$8,000 for the initial application. This cost is in addition to the City's fee of \$750 making the "if" of municipal approval more risky than an applicant may be open to.

Low risk applications are identified as those with very small occupant loads with early closing hours as well as a select set of applications that a municipality would not see if it had not been for a request to acquire an entertainment endorsement. A food primary closing before midnight for instance would never be referred to the local government for input. I.e. the municipality would have no say in the approval of the liquor licence. If that same establishment later decides they want to have a live musician, karaoke night or permit dancing after dinner, they must acquire an entertainment endorsement from LCLB and this type of approval requires local government approval. These types of activities in establishments are considered to be low risk and are proposed for inclusion in the streamlined policy for the City of Victoria which does not require a review and comment as there is a very little value derived from the process.

The creation of policy and simplified process for low-risk applications is thought to promote greater diversity in options for consumption. It incentivises more small-scale and innovative options for consumption that are not focused on drinking only as may more so be the case with Liquor Primaries. The Current policy supports liquor primaries until 2am but only supports food primaries until 1:00 am on Friday's and Saturday's and 12:00 am all other days. The policy proposal supports diversity in options providing equal opportunity for staff to support both food and liquor primaries until 2am.

Staff have reviewed the legislative changes and streamlined review and approval requirements in light of other associated city policies such as the Land Use Procedures Bylaw and the Noise Bylaw to seek alignment with Council direction. Recommended policy improvements include:

### **Policy Recommendation #1: Adopt an approval process to "Opt Out" of review for some applications**

City of Victoria provides direction through Council approved policy that the City will "opt out" of the review and comment requirements for the following types of liquor 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. A temporary 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.

*Impacts:* Expected impacts of opting out of providing review and comment functions are expected to be minimal for businesses that supplement their main operations with liquor service. Opting-out will leave some risk primarily related to noise but the City will work with business owners to ensure understanding that noise cannot exceed the sound thresholds articulated in the *Noise Bylaw* (No. 03-012), which generally starts at 10:00 pm. A summary of the approval processes for Food Primary, Liquor Primary and Manufacturers is contained in Attachment 2.

**Policy Recommendation #2: Changes to the Public Notification for reviews that require Council Resolution**

For those applications that do not fall within the parameters for opting out as outlined above, staff will continue with the public notification process and provide these comments for Council decision [resolution]. Staff have reviewed the current notification for the three noise zones for notification which are as currently Quiet Zone (500 metres), Intermediate Zones (300 metres), Activity Zone and Downtown (100 metres). The rationale for notification radiuses put in place in 2003 is not known, however staff assessment indicates that these notification radii are excessive and adding time and expense to both the City, residents and applicants. Furthermore the recommendation for moving all notification radii to 100 metres aligns with the same radius used in *Land Use Procedures Bylaw* and is approximately one city block.

*Impacts:* A simplification of the radius for public notification for comment is expected to be positive in terms of saving time and costs for both the City and the Applicant.

**Policy Recommendation #3: Fee Update**

The City of Victoria update the current *Liquor Licensing Fee Bylaw* (No.01-36) as follows:

- a. Consolidate the two part fee for applications that require resolution to a one-time, single fee of \$750 which includes public notification expense.
- b. Introduce a new approval fee for those applications that the City will 'opt out' of. The recommended amount is a one-time, single fee of \$200, which is consistent with the fee charged for a similar review in the *Land Use Procedures Bylaw* (No. 16-028). This is a substantial reduction from the current two-part fee of \$750 that would apply to this type of application.
- c. Remove the fee of \$25.00 for a staff assessment of a special occasion liquor licence as it is unnecessary due to current LCLB process.
- d. Retain the fee of \$40.00 for a staff assessment of a licence application for a temporary change to a liquor licence terms and conditions

*Impacts:* The impacts of the changes are expected to be minimal. The fee changes are intended to be revenue neutral and costs associated with review and administration are more closely aligned with the complexity and risk associated with the application.

**Policy Recommendation #4: Hours of Operation – Food and Liquor Primary Establishments**

That Council revise its current motion on extended hours for Food Primary Establishments to permit equal opportunity for support of both Food Primary Licences as well as Liquor Primary Licences by considering both licence types up to 2:00 am daily.

*Impact:* A previously approved Council Motion from May 2007 provided direction to staff that Council will consider an extension of hours of operations for food primary establishments up to, but not past 01:00 am on Fridays and Saturdays only. The policy change provides equal opportunity for food-focused establishments to compete with liquor focused establishments for late night business.

**Policy Recommendation #5: Provisions to Extend Hours of Service – Special Circumstances**

That the City of Victoria consider, on a case by case basis, short term extension of hours between 02:00-09:00 to accommodate businesses wishing to serve liquor under exceptional circumstances, such as the viewing of international sporting or cultural events.

*Impact:* The current direction from Council is that liquor establishments may extend their hours of service from 02:00 to 03:00 on New Year's Eve on condition that food is available to patrons. This is proposed to be modified to not include the condition for food as it may be impractical for the operators and for the City to enforce. Further to this is that LCLB provides guidelines for responsible service which is applicable at any time.

**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 - Reduced processing time for all types of applications from building permits to rezoning.

**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. 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

Based on Council direction, staff will return with a Liquor Licencing Fee Bylaw and a revised Liquor Licencing Policy, if required, prior to the end of July 2017.

Respectfully submitted,



Chris Coates  
City Clerk



Ryan Morhart  
Permit and Inspections Manager

Report accepted and recommended by the City Manager:



Date:

May 19, 2017

### List of Attachments

1. Draft Liquor Licencing Policy
2. Liquor Licencing Process Summary
3. 2007 Liquor Policy