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# CITY OF KELOWNA

## MEMORANDUM

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**Date:** July 26, 2001  
**File No.:** 3900-00

**To:** City Manager

**From:** Planning and Development Services Department

**Subject:** Proposed Amendment to Bylaw No. 7878 – Class “C” Liquor Licensed Cabaret Establishments Downtown

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### 1.0 RECOMMENDATION

THAT Municipal Council direct staff to prepare an amendment to Bylaw No. 7878 as detailed in Schedule A attached to the report from the Planning and Development Services Department dated July 25, 2001.

### 2.0 SUMMARY

Recent policy changes with the Liquor Control and Licensing Branch have allowed all liquor licensed establishment to apply to increase their seating capacity by the lessor of 50% or to the maximum building occupant load as determined by the BC Building Code and the Fire Department. Currently, City of Kelowna Bylaw No. 7878 regulates the number of cabarets within the general downtown area (see Schedule “B” attached) to a maximum of five, and also limits the maximum seating capacity to 350 for any one establishment.

The Planning and Development Services Department has been approached by Mr. Bill Shepherd, one of the cabaret operators within the area defined by Bylaw No. 7878, to increase the occupant capacity above 350 patrons. The restrictions of Bylaw 7878 prohibit this proposed expansion and the applicant has requested that staff and Council review the bylaw. The applicant's letter dated April 30, 2001, is attached as Schedule “C”. Staff have also been approached by Mr. David Johnstone who is interested in applying for a new Class “C” liquor license for the old Red and Blue Uptown Cinema building in order to pursue the development of a “Lazerium”. A Class “C” license is apparently critical to their business plan. Council should also be aware that an additional Class “C” licensed establishment exists outside of the boundary defined by Bylaw No. 7878 on Leon Avenue.

### 3.0 PROPOSAL

The Planning and Development Services Department has circulated the original letter of request from Mr. Shepherd to the RCMP, the Inspection Services Manager, the Bylaw Enforcement Supervisor and the City Clerk. Furthermore, there have been discussions with the local Liquor License Inspectors regarding any proposed changes to Bylaw No. 7878. Staff have considered a few options for Council to consider:

1. Make no changes to Bylaw No. 7878.
2. Rescind Bylaw No. 7878.
3. Amend the boundaries of the restricted area of Bylaw No. 7878 and amend the restriction on capacity limitation to coincide with current LCLB policy.

The first option preserves the “status quo” but does not account for lands beyond the current restricted area that could potentially apply for a Class “C” liquor license. This option could see the City of Kelowna having to process applications for Class “C” licenses in the immediate vicinity of the restricted area.

The second option would see the entire City of Kelowna fall under the same rules for Class “C” liquor licenses. The LCLB has amended their policies to rely on input from local municipalities in their consideration for granting licenses. Although the current practice indicates that LCLB would not approve a Class “C” license where the local municipality was not in favour of the application, this decision lies with the provincial jurisdiction and is, therefore, out of the control of the City of Kelowna.

The third option would broaden the restriction on Class “C” liquor licenses. The proposed boundary change would include all lands within the current Downtown Town Centre, as identified by the Official Community Plan. The third option would also recognize an additional Class “C” liquor license that exists on Leon Avenue. Finally, the third option would allow existing Class “C” liquor licensed establishments to expand by 50% or to their current building occupant load, whichever is less. Staff would also recommend that if any of the Class “C” liquor licenses are considering to relocate within the restricted area, that their maximum occupant load be restricted to 350 as the original bylaw provisions intended.

#### **4.0 CONCLUSION**

The Planning and Development Services Department recommends City Council consider the third option as identified in Schedule “A” attached to this report.

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Andrew Bruce  
Current Planning Manager

Approved for inclusion ☐

R.L. (Ron) Mattiussi, A.C.P., M.C.I.P.  
Director of Planning & Development Services

AB/hb

Attach.

## SCHEDULE A

### **Proposed Amendments to Business License and Regulation Bylaw No. 7878**

That Section 21 of Business License and Regulation Bylaw No. 7878 be rescinded and replaced with the following re-worded Section 21:

#### 21. CLASS C LIQUOR LICENSED ESTABLISHMENTS (CABARET)

- 21.1 A maximum of six business licenses for Class C liquor Licensed Cabaret Establishments shall be approved within that area defined on Schedule F of this bylaw.
- 21.2 Business Licenses for Class C Liquor Licensed Cabaret Establishments within that area defined on Schedule F of this bylaw shall be limited to a maximum occupant load of 525 persons or the occupant load of the licensed premises as defined by an approved floor plan by LCLB as of December 31, 2000, whichever is the lessor.
- 21.3 Any Business License for a Class C Liquor Licensed Cabaret Establishment within that area defined on Schedule F of this bylaw that applies to relocate within the restricted area shall be limited to a maximum occupant load of 350 persons.