CITY OF KELOWNA

MEMORANDUM

Date: November 19, 2002

To: City Manager

From: City Clerk

Subject: Repeat Applications – Proposed Council Policy

RECOMMENDATION:

THAT Council Policy No. 308 - Repeat Applications, as attached to the report from the City Clerk dated November 21, 2002, be approved by Council.

BACKGROUND:

The City's Development Application Procedures Bylaw No. 8140 provides that:

9.2.1 Subject to section 895(3) of the *Local Government Act*, re-application for an amendment of the **Official Community Plan** or **Zoning Bylaw** or a Permit under Part 26 of the *Local Government Act* that has been refused by **Council** shall not be considered within a six month period immediately following the date of refusal.

A similar provision is in the City's Heritage Procedures Bylaw No. 7776:

5.5 Subject to Section 950 of the *Local Government Act*, re-application for a **Heritage Revitalization Agreement**, or the amendment of a **Heritage Revitalization Agreement**, that has been refused by **Council** shall not be considered within a six (6) month period immediately following the date of refusal.

One of the underlying rationales for this type of provision is that of ensuring that the public, who are given an opportunity to comment and make representations to Council during the public meeting or hearing at which the application is considered, are assured that they will be called upon to do so only once. Members of the public who feel strongly enough about an issue to take time out of their day, which sometimes involves taking time off of work or other important activities, must be assured that there is some finality to an issue, and that they won't be compelled to attend again and again to make their representations to Council *when the material facts of the application are exactly the same as those on which their earlier representations were made*.

Another reason for this "no repeat applications for six months" rule is that, though an applicant is required to pay the cost of the required public notification for such items, there is an unmeasured cost in lost opportunity due to the staff time and Council time which is taken up by having to process exactly the same application on a repeated basis.

The Development Application Procedures Bylaw and the Heritage Procedures Bylaw however, do not apply to all categories of applications that Council sometimes considers, which involve opening the floor at a public meeting or hearing to comments from the public. The above recommendation would, in effect, extend the application of the "no repeat applications for six months" rule to other types of applications such as liquor licensing, heritage designation bylaws and land use contracts. These are examples of types of applications where public notification and public input procedures are followed which are similar to those for OCP and Zoning Bylaw amendment applications. Members of the public who have taken the time to put their opinions to Council in a public forum on these types of applications should be give the same assurance that they will not have to do so repeatedly as those who speak on items specifically covered by the Development Application Procedures Bylaw or the Heritage Procedures Bylaw provisions.

Of course, a resolution made by Council may be brought back for reconsideration under certain circumstances, as outlined in the *Local Government Act* and Council Bylaw No. 7906. The recommended action would not affect a reconsideration brought by members of Council in those circumstances.

_____
D.L. Shipclark
City Clerk

Encl.

CITY OF KELOWNA

COUNCIL POLICY MANUAL

POLICY:	308
PAGE:	1 of 1
APPROVAL DATE:	@
RESOLUTION #:	@
REPLACING #:	@
DATE OF LAST REVIEW:	November 2002

SUBJECT: REPEAT APPLICATIONS

Council will not consider any application or matter put before them, of a category which would ordinarily involve receiving written or verbal input from the public during a Council meeting or hearing, if that application and its corresponding recommendation from staff is the same in all material facts as one considered by Council within the immediately preceding six months.

(Note: This practice would not apply where a matter is properly brought back for reconsideration by Council according to the *Local Government Act* and Council Bylaw No. 7906.)

REASON FOR POLICY: To extend the 'no repeat applications for 6 months' rule in the Development Application Procedures Bylaw and Heritage Procedures Bylaw to applications or matters such as heritage designation bylaws, land use contracts and liquor licensing, in order to give members of the public who have taken the time to put their opinions to Council in a public forum on these types of applications the same assurance that they will not have to do so repeatedly as those who speak on items specifically covered by the Development Application Procedures Bylaw or Heritage Procedures Bylaw.

LEGISLATIVE AUTHORITY: Council Resolution.

PROCEDURE FOR IMPLEMENTATION: The Planning Department will ensure that no application is brought back before Council for reconsideration within 6 months of being refused by Council, unless the application has been substantially changed or is brought back for reconsideration under certain circumstances as outlined in the *Local Government Act* and Council Bylaw No. 7906.