
CITY OF KELOWNA

MEMORANDUM

Date: December 6, 2006
File No.: 6530-18
To: City Manager
From: Director of Planning and Development Services
Subject: OUTDOOR FOOD AND BEVERAGE PROGRAMS

RECOMMENDATION

THAT Council endorse provisions pertaining to entertainment within outdoor seating areas as set out in the Planning and Development Services Department report of December 6, 2006;

AND THAT Bylaw 9587 (being amendment #8 to Traffic Bylaw #8120) be advanced for reading consideration.

BACKGROUND

On September 18, 2006, a staff report with respect to the outdoor seating programs was considered at a regularly-scheduled meeting of Council. At that meeting, Council:

- 1) endorsed in principle, the course of action set out by the Planning and Development Services Department with respect to the provision of entertainment within outdoor seating areas,
- 2) endorsed in principle, an enforcement procedure with respect to permit holders in breach of the terms of reference of either of the outdoor seating programs; and
- 3) directed staff to communicate the proposed changes to the Downtown Kelowna Association (DKA) and the businesses with permits for outdoor seating areas, for input on the proposed changes and to report back to Council prior to proceeding with changes to the terms of reference of the respective programs and prior to any required changes to the Traffic Bylaw.

DISCUSSION

Staff subsequently prepared a letter to all outdoor seating permit holders within Downtown (Attachment 1). As well, comments were solicited in the information section of the local newspapers on Friday, September 22, 2006.

Additionally, staff prepared a survey that was faxed to the Downtown Kelowna Association membership. That survey was sent out Friday, October 27, 2006. The deadline for responses was 4 PM, Friday, November 3, 2006. The survey is included as Attachment 2. A summary of the survey is included in Attachment 3.

The responses as a result of the letters mailed to the permit holders and the advertisement in the information section of the local newspapers indicated strong support for the outdoor seating programs and for the provision of entertainment within these seating areas.

Twenty-eight (28) responses were received. Twenty (20) of those responses favoured controls of one kind or another on sound levels. Five (5) respondents favoured no restrictions on sound volumes. Three (3) respondents expressed support for outdoor entertainment but did not comment on the issue of sound levels.

The responses from the survey fax to Downtown Kelowna Association members indicated overwhelming support for the outdoor seating program with forty-seven (47) of forty-eight (48) respondents saying the outdoor seating areas have a positive impact on Downtown. There was also strong support for entertainment within outdoor seating areas with forty-one (41) respondents saying they support such entertainment. Seven (7) respondents who support the outdoor seating programs did not favour entertainment within outdoor seating areas with noise and disturbance being cited as reasons for non-support.

Of the respondents who supported entertainment within outdoor seating areas, five (5) favoured no restrictions whatsoever. Thirty-four (34) respondents favoured controls. Restrictions on volume were indicated thirty-three (33) times; restrictions on hours of operation were cited twenty-seven times (27); and restrictions on types of instruments were indicated seven (7) times (restrictions on electric instruments were indicated two (2) times with no mention of what instruments be restricted from the other five (5) respondents).

It is staff's recommendation that restricting instruments to those that are non-amplified is the most realistic option for controlling sound volumes as desired by survey respondents. This provision would not restrict any kind of instrument as long as the associated sound was not amplified. As set out in the Planning and Development Services report of September 18, 2006 outdoor entertainment that meets the above provision would be allowed seven days a week with the exception of midnight to 8 A.M.

Staff feel the recommendations put forth in this report are consistent with the concerns and expectations expressed by respondents to both the request for comments from permit holders and the survey distributed to the DKA membership, and ask that those recommendations be endorsed by Council.

SUMMARY

It is recommended that Council support the recommendations pertaining to outdoor seating areas as set out in the Planning and Development Services report of December 6, 2006.

Signe K. Bagh, MCIP
Manager, Policy, Research, and Strategic Planning

PJM/pm

Approved for inclusion	
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Mary Pynenburg, MRAIC MCIP B.Arch M.Pl.
Director, Planning and Development Services

ATTACHMENT 1: Letter to Stakeholders

September 25, 2006

Dear _____,

Re: Entertainment Within Outdoor Seating Areas

As you may be aware, City Council recently received a report from staff recommending limits to entertainment within outdoor seating areas associated with food and beverage businesses.

City Council is now requesting public input with regards to entertainment within these areas prior to making any changes to the Traffic Bylaw. Council seeks input with respect to tolerable levels and types of sound. This discussion could lead to endorsement or limitation of certain types of instruments and/or hours for entertainment within outdoor seating areas.

The Council minutes and staff report pertaining to this issue from Monday, September 18, 2006 can be found on the City website at www.kelowna.ca under City Hall/Council/Meetings.

If you wish to provide your comments on this matter for public record and review, please send your comments to:

Patrick McCormick
Policy, Research, and Strategic Planning Division
The City of Kelowna
1435 Water Street
Kelowna, BC V1Y 3J4

or by email to: pmccormick@kelowna.ca

Comments must be received no later than October 20, 2006.

Thank you for sharing your thoughts on this matter.

Yours sincerely,

Patrick McCormick

Cc: City Manager
Director of Development Services
Manager, Policy, Research, and Strategic Planning

ATTACHMENT 2: Survey of DKA Members

Entertainment Within Outdoor Seating Areas
Survey of Downtown Kelowna Association Members

October, 2006

The City of Kelowna is seeking input on entertainment within outdoor seating areas associated with food and beverage operations within Downtown.

Your response to the questions below will help City Council make an informed decision regarding any rules associated with entertainment within outdoor seating areas.

Completed questionnaires can be dropped off at, or mailed to City Hall, 1435 Water Street, V1Y 1J4 or faxed to 862-3320. Responses should be addressed to Patrick McCormick no later than **4 PM, Friday, November 3, 2006.**

1. What is your opinion of outdoor seating areas generally?

- A. outdoor seating areas have a positive impact on Downtown ☐
- B. outdoor seating areas have a negative impact on Downtown ☐
- C. outdoor seating areas have no impact on Downtown ☐

2. Do outdoor seating areas impact your business?

- A. yes, a positive impact ☐
- B. yes, a negative impact ☐
- C. no impact ☐

3. Should live entertainment within outdoor seating areas be allowed?

- A. no ☐

Comments?

- B. yes ☐

Comments?

If yes to question 3B, should restrictions be placed on outdoor entertainment?

a. no restrictions whatsoever

☐

b. restrictions on volume

☐

Please indicate what volumes would be acceptable and if so, how "acceptable" volumes should be determined.

c. restrictions on hours of operation

☐

Please indicate what hours would be acceptable

d. restrictions on types of instruments

☐

Please indicate what types of instruments should not be allowed-

4. Are you a business owner and/or a property owner?

A. business owner

☐

B.. property owner

☐

On what street and block is your business or property located?

Thank you

ATTACHMENT 3: Survey Summary

▪ Surveys returned	48
▪ Respondents who don't support entertainment within seating areas	7
▪ Respondents who support entertainment within seating areas	41
➤ Respondents who support no controls on entertainment	5
➤ Respondents who support controls on entertainment	34
○ Respondents who support controls on volume	33
○ Respondents who support controls on hours of operation	27
○ Respondents who support restrictions on instruments	7

There is overwhelming support for the outdoor seating program (86% of respondents said the seating areas have a positive impact on Downtown). There is also strong and enthusiastic support for entertainment within outdoor seating areas (85%). A high proportion of supporters of entertainment also believe there should be some kind of restriction on entertainment (71%). However, not many respondents who supported restrictions on volume offered a means to measure volumes other than to measure decibel levels.

The following comments were offered regarding types of music and instruments that should be allowed:

	<u>No. of respondents who made comment</u>
▪ Background music only	1
▪ No electric guitars	2
▪ No drums	3
▪ Acoustic instruments only	5
▪ Sound shouldn't travel beyond immediate area	4

The following is a list of hours of operation supported by respondents:

- up to 9 P.M.
- up to 10 P.M. weekdays
- up to 11 P.M. - 2 comments
- up to midnight – 2 comments
- up to 2 A.M.
- 9 A.M. to 11 P.M.
- 11 A.M to 10 P.M.
- 11 A.M. to 1 A.M.

- 5 P.M. to 11 P.M.
- 7 P.M. to midnight
- 8 P.M. to midnight
- 9 P.M. to 11:30 P.M.
- 9 P.M. to midnight
- 10 P.M. and later