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Memo



Date: March 10/10
To: City Manager
From: Land Use Management Department
Subject: Liquor Control Review Task Force
Report Prepared by: Luke Turri

1.0 Recommendation:

THAT Council rescind the establishment of the Liquor Control Review Task Force previously adopted on October 5, 2009.

AND THAT Council direct staff to proceed with a Liquor Control Review by establishing Committee of the Whole Meetings as per Council Procedures Bylaw 9200, directing staff to review and report back with a recommendation at a future Council meeting;

2.0 Background:

At the October 5, 2009 Regular Meeting, the following recommendation was adopted by Council:

THAT Council direct staff to proceed with the establishment of the Liquor Control Review Committee as submitted;

AND THAT Terms of Reference for the Liquor Control Review Committee, as attached to the Land Use Management Department's report dated September 23, 2009, be endorsed by Council;

Since that time, staff actively worked to complete the Task Force membership. Unfortunately it has proved challenging to secure representation from all of the stakeholders proposed in the Terms of Reference. In addition, the Liquor Control and Licensing Branch has declined to sit as a member of the Task Force, and would only be able to act in an advisory capacity to staff when forming their recommendations to Council. This has undermined the original intent of the Task Force formation. Given the operational and logistical challenges that have been presented in forming a Task Force with broad community representation, original timelines for a report back to Council have already been compromised. As such, Staff have sought alternative methods to complete this review.

Through consultation with the City Manager, and evaluating the options available to Council to complete this review in a timely fashion, "Committee of the Whole Meetings" have been chosen as the most efficient way to receive public input and discuss city-wide the issues surrounding liquor control and entertainment districts. As per Council Procedures Bylaw 9200, these are considered a Special Meetings of Council, where information can be received and staff can be directed to review and report back with recommendations at a future Council meeting. Council is restricted from making any formal decisions at these meetings.

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Invitations to make representation to Council would be given to each group which was to have been represented in the Liquor Control Review Task Force, as outlined in the submitted Terms of Reference. In addition, other pertinent stakeholders and interest groups would be welcomed. Depending on the level of interest of local stakeholders and interest groups, two meetings may be required to complete the process.

Background information would be provided to each invitee, requesting input on specific criteria. Consistent with the original recommendations for the Liquor Control Review Task Force, the proposed Liquor Control Review Committee of the Whole Meetings would assess the content of Council Policy #315 and its validity to the current conditions, investment climate and resource implications. At a broader level, it is anticipated that the review would determine additional methods to deal with liquor license applications and to help create vibrant, safe, fun environments at and around all liquor establishments - for both residents and tourists alike. Topics for consideration may include but would not be limited to: hours of sale, "soft closings", patron identification systems, transit availability, the establishment of formal entertainment districts, and a review of programs within other municipalities.


Based on the above information, staff are recommending that the Liquor Control Review Task Force be rescinded, and that Council direct staff to organize Committee of the Whole meetings to facilitate the Liquor Control Review.

Submitted by:



 S. Gambacort
Director, Land Use Management

Approved for inclusion:



J. Paterson
General Manager, Community Sustainability

CC: City Clerk
Community Policing Coordinator, RCMP



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POLICY: 315
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APPROVAL DATE: 2004/05/17
RESOLUTION #: R153/06/02/20
REPLACING #: R568/04/06/07; Council Policy #255
DATE OF LAST REVIEW: November 2008

SUBJECT: LIQUOR LICENSING PROCEDURES LIQUOR PRIMARY (LP) AND RETAIL LIQUOR SALES (RLS)

Background:

City of Kelowna Municipal Council has an interest to hear from the public prior to Council's decision on all new liquor license applications for Liquor Primary establishments. Council is also concerned with changes to existing Liquor Primary licenses such as increases to seating capacity, transfer in location, changes in operating hours or temporary changes to any of the aforementioned items. The following policy document presents an overview of the application process for liquor license applications. In addition, Council adopted a 2003 report from the Mayor's Entertainment District Task Force relating to liquor licensing policy. The relevant policy from this document is listed below.

Liquor Primary Policy (LP) - Mayor's Entertainment District Task Force Policy

- No new, expanded or relocated Liquor Primary Establishment shall be permitted with a person capacity of greater than 500 persons.
- Any new, expanded or relocated Liquor Primary License application with a person capacity of 350 persons or more shall not be located closer than 300 m (shortest travel distance) to an existing Liquor Primary Establishment with a person capacity of greater than 350 persons and no closer than 100 m (shortest travel distance) to another Liquor Primary Establishment with a person capacity between 150 and 350 person capacity and not abutting or adjacent to another Liquor Primary Establishment with a person capacity of less than 150 persons.
- Any new, expanded or relocated Liquor Primary License application with a person capacity of between 150 and 350 persons shall not be located closer than 100 m (shortest travel distance) to an existing Liquor Primary Establishment with a person capacity greater than 150 persons and shall not be located abutting or adjacent to another Liquor Primary Establishment with a person capacity of less than 150 persons.
- Any new, expanded or relocated Liquor Primary License application with a person capacity of less than 150 persons shall not be located adjacent or abutting an existing Liquor Primary Establishment.

Liquor Primary Establishments (LP) within the Downtown Plan Area – Mayor's Entertainment District Task Force Policy

- No additional Liquor Primary establishment shall be considered within the Yellow Area identified by the Downtown Plan
- No additional capacity for existing Liquor Primary Establishments shall be considered within the Yellow Area identified by the Downtown Plan

Retail Liquor Sales (RLS) – and Mayor's Entertainment District Task Force Policy

Municipal Council has approved changes to the zoning bylaw which will require new or relocated Licensee Retail Sales establishments to apply for a rezoning application. The zoning bylaw recognises that any establishment selling liquor falls under a use category of Retail Liquor Sales. In considering rezoning applications for Retail Liquor Sales, Municipal Council will give due consideration to the proximity and relationship to existing Liquor Primary Establishments as follows:



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- No Retail Liquor Sales shall be approved for (in conjunction with) Liquor Primary Establishments with person capacity that exceed 150 persons
- Any new or relocated Retail Liquor Sales establishment shall not be located within 300 m of an existing Liquor Primary establishment with a person capacity greater than 350 persons.

Policy for New Liquor License Applications:

- a) All new liquor license applications and all proposed changes to existing liquor licenses for Liquor Primary establishments shall only be considered by Council (or the Director of Planning and Corporate Services in the case of applications for temporary changes) by way of a City of Kelowna Liquor License Application
- b) All liquor license applications for Liquor Primary establishments will be subject to a public meeting (or a Public Hearing where the application is being considered concurrently with a rezoning application). Applications for temporary changes to liquor primary licenses will be considered by the Director of Planning and Corporate Services and will only be considered by Council should the applicant wish to appeal the decision of the Director.
- c) For all new and proposed changes to Liquor Primary licenses, an application must be made in writing to the Director of Planning and Development Services. In cases where the application is for a new license, pre-clearance, (Preliminary Site and Applicant Approval), from the Liquor Control and Licensing Branch, must be granted prior to any municipal considerations. As well, if approval is required by the Land Reserve Commission, this must be presented in writing to City Staff at the time of application to the Director of Planning and Corporate Services.
- d) Staff reviews the application and determines what other municipal procedures (i.e. zoning, development permit, etc.) are required. If a zoning and/or development permit is required, the applicant is requested to make the appropriate application(s) to the Planning & Development Services Department. If a rezoning application is submitted, Municipal Staff will attempt to ensure that the Public Hearing to review the Liquor Licensing Application will be completed concurrently with the rezoning proposal. If rezoning is not required then a Public Meeting of Council shall be held to determine the community opinion.

At the discretion of the Director of Planning and Corporate Services Department the applicant may be required to discuss the development proposal plans with neighbours and the local resident's association prior to proceeding to Municipal Council. The applicant should consider accomplishing this by hosting a neighbourhood information meeting to provide an informal opportunity to discuss and resolve the neighbourhood concerns with the proposal prior to the Public Hearing (or Public Meeting) which will be hosted by Council.



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- e) For temporary changes to existing Liquor Primary licenses that concern either a change in capacity or hours of operation the applicant is required to provide the same documentation as is required for a new liquor primary license application. Staff will review the proposed change with the RCMP, Fire Department, Inspection Services Department, Liquor Control and Licensing Inspector and the Director of Planning and Corporate Services. Staff will then provide a recommendation to the Director of Planning and Corporate Services and forward the appropriate documentation to the Liquor Control and Licensing Branch in Victoria. The Director of Planning and Corporate Services will only consider three temporary changes to a Liquor Primary license in any 365 day period beginning with the first temporary change application from a liquor primary licensee. Council consideration of temporary change applications shall be at the discretion of Council and the applicant should the Director of the Planning and Corporate Services Department choose not to support the application.
- f) The applicant must make an information sheet available to the public, as well as Municipal Staff. This information sheet must contain the following:
1. The street/civic address of the proposed site;
 2. The person capacity of the proposed establishment permitted under the legislation;
 3. The proposed days and hours of operation permitted under the legislation for the liquor primary license;
 4. Information about any other factors of interest to local residents, (e.g. patio extension and/or hours of operation);
 5. A map of the area, specifically noting the location of the proposed establishment serving liquor, in relation to schools, playgrounds, day cares and other facilities of this nature.

Procedures for New Liquor License Applications:

- (a) The applicant will be required to place "Liquor Primary License Proposal" sign on the property in accordance with Development Application Procedures Bylaw No. 8140, (at least ten days prior to the Public Hearing meeting date, and fill out the appropriate affidavit after having erected the sign(s).
- (b) Notification to abutting property owners, within a distance of 100 metres in Town Centres as defined in the Official Community Plan and 400 metres in all other areas, shall be the responsibility of Municipal Staff.
- (c) Newspaper advertisements must take place in a least two consecutive issues, with the last publication to appear not less than three and not more than ten days before the Public Hearing or Public Meeting. Municipal Staff shall be responsible for the placement of the notification with the appropriate papers. The applicant is responsible to pay for costs of the Public Hearing or Public Meeting related to the Liquor License application.



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- (d) Municipal Council shall give due consideration to the following while reviewing the information which accompanies a liquor license application:
1. Pertinent input from the R.C.M.P.
 2. Traffic patterns for area and current zoning.
 3. Availability of on-site and off-site parking.
 4. Proximity of playgrounds and schools.
 5. General impact on the local neighbourhood.
 6. If a patio component is proposed, potential limitation on hours for patio use in relation to potential impact to nearby residential uses.
 7. Any correspondence received from abutting property owners.
 8. Past compliance and performance issues as may be provided by the local Liquor Inspector.
- (e) Municipal Council will give due consideration to the impact of the proposed Liquor Primary establishment in the context of any relevant plans and policies. Specific consideration will be given to the size (capacity) and proximity of the proposed Liquor Primary establishment to existing Liquor Primary establishments. Based on current plans and policies, the following guidelines will be used in the applicable areas of the City as noted;
- (f) The Planning & Development Services Department shall make a recommendation to Municipal Council regarding the proposal. Council shall make its decision based on this recommendation as well as the information received at the Public Hearing or Public Meeting.
- (g) The decision rendered by Municipal Council is then forwarded to the Liquor Control and Licensing Branch by the Planning and Corporate Services Department for their final review and to the Land Reserve Commission for their information where required.

Procedures for Special Occasion Liquor Licenses in the "Yellow Zone"

- a) No Special Occasion Liquor Licenses are to be granted on holiday weekends (long weekends) between May 1st and October 1st.
- b) No Special Occasion Liquor Licenses are to be granted where liquor is to be served beyond 11:00pm unless the licensee makes arrangements with the RCMP to have additional officers on duty to police the extra traffic (at the licensee expense).
- c) No Special Occasion Liquor Licenses are to be granted where the proposed event is intended to cater to youth or where youth (under the age of 19) will be present.



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COUNCIL POLICY MANUAL

APPROVAL DATE: 2004/05/17
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- d) SOL licensees are to retain qualified private security personnel to monitor access to and from licensed events.
- e) The RCMP have the authority to place additional restrictions on SOL's should they have public safety concerns associated with the event.

REASON FOR POLICY: To establish procedures for processing Liquor Primary License Applications and for dealing with retail liquor sales.

LEGISLATIVE AUTHORITY: *Liquor Control and Licensing Act*

PROCEDURE FOR IMPLEMENTATION: As outlined in policy