



Corporate

NO: R228

Report

COUNCIL DATE: November 5, 2001

REGULAR COUNCIL			
TO:	Mayor & Council	DATE:	November 1, 2001
FROM:	General Manager, Planning & Development	FILE:	2156-001
SUBJECT:	Designated Food Optional Areas in Existing Class "B" Licensed Establishments		

RECOMMENDATION

The Planning & Development Department recommends that Council:

1. Receive this report as information;
2. Authorize staff to process applications for Designated Food Optional areas with the proviso that any applications identified as problematic, based on the history of the related liquor licensed establishment, be forwarded to Council for their review;
3. Approve a fee of \$150 for each Designated Food Optional application, to be charged to the applicant; and
4. That the Acting City Clerk be authorized to bring forward appropriate amendments to Surrey Fee Setting By-law, 1993, No. 11738, to charge an application fee pursuant to Section 15.1 of the Liquor Control & Licensing Regulations.

PURPOSE

The purpose of this report is to advise Council of recent changes to the liquor licensing regulations in relation to Designated Food Optional ("DFO") areas and to seek Council authorization for staff to respond directly to the Liquor Control and Licensing Board ("LCLB") regarding DFO applications, except in circumstances where staff view the application as problematic, in which case, a report will be forwarded to Council for consideration and direction in relation to input to the LCLB.

BACKGROUND

Recent changes to the Provincial Liquor Control and Licensing Regulations allow owners of existing licensed establishments to apply for an increase in liquor licence capacity. These changes also allow for applications for DFO areas in restaurants and similar establishments with Class "B" licenses (i.e. dining lounge or dining room that serves beer and wine or a broader range of liquor).

The LCLB requests input from local governments, with respect to the approval of DFO applications. The LCLB has indicated that a processing fee can be charged by the local government, for review of an application. In the absence of a review by the local government, within a reasonable time-frame, a unilateral decision on the application will be made by the LCLB.

DISCUSSION

DFO areas are defined as areas within existing restaurants in which liquor can be served without food. The changes to the Liquor Control and Licensing Regulations allow for a maximum DFO area of 10% of licensed seating capacity or 20 seats, whichever is less. The following rules apply in these areas:

1. Seats designated DFO must be grouped together and be visually distinct from the remainder of the restaurant or dining area;
2. Patrons must be seated to be served;
3. Minors are permitted in the DFO area only if accompanied by an adult;
4. Any patron in the DFO area counts towards the capacity, whether or not they are consuming liquor;
5. There can be more than one DFO area per restaurant, provided that one area is on a patio and the maximum permitted DFO seating capacity is not exceeded;
6. In addition to DFO areas, liquor may be served without food at other tables in the restaurant provided that 75% of patrons at those table are consuming food, have ordered food or are intending to order food;
7. The DFO area cannot be advertised, nor can it be referred to in any manner that suggests it is being operated as a bar or in a bar-like fashion;
8. Hours of operation of the DFO must be identical to those of the restaurant; and
9. The provision of DFO areas will not increase the number of people allowed in a licensed restaurant.

It is evident from the foregoing that only a relatively minor proportion of existing seating in liquor licensed establishments is affected and the overall seating capacity is unchanged under these new rules, related to DFOs.

Wall arrangements, washrooms, exits or other life safety elements in establishments applying for DFO areas will not, typically, be adjusted. The process for reviewing applications for DFO areas should be kept as simple and streamlined as possible. It is recommended that the staff review include the following:

1. Verification of the location and zoning of the premises;
2. Review of the proposed interior seating arrangement in relation to Building Code requirements; and

3. Review of the City's files with respect to determining if the establishment has been problematic from a by-law compliance prospective; and
4. Attendance at the site by the Fire Department to review provisions for life safety items such as exit routes, once DFO areas are in operation.

As no increase in seating capacity will be considered, parking will not be an issue in the review of DFO applications. Staff will forward comments to the LCLB based on the results of the review covered by items 1 to 3 above. Problematic applications, such as those for establishments having previous infractions of City by-laws, will be referred to Council for consideration, prior to providing comments to the LCLB.

An application fee of \$150 is considered to be adequate to cover the costs of the City's review process. The processing time will be monitored and adjustments to the application fee will be recommended to Council if the currently proposed fee does not adequately reflect the City's costs.

CONCLUSION

As the impact of the majority of applications for DFO areas would appear to be minimal, both upon the premises themselves and the neighbourhoods in which they are situated, it is recommended that DFO applications be reviewed and comments be submitted, by staff, to the LCLB without Council involvement. In situations where staff view an application as problematic (i.e. based on the prior history of the liquor licensed establishment, etc.), it will be referred to Council for consideration, prior to comments being forwarded to the LCLB.

Based on an estimate of the time required to review most applications, an application fee of \$150 is recommended. A By-law amendment is necessary to introduce this fee.

Murray D. Dinwoodie

General Manager

Planning & Development Department

NM/kms/saw

v:\wp-docs\building\01data\oct-dec\10231341.nm.doc

KMS 11/6/01 11:16