



Corporate Report

NO: R209

COUNCIL DATE: September 29,

2003

REGULAR COUNCIL

TO: Mayor & Council DATE: September 25,
2003

FROM: General Manager,
Planning and
Development FILE: 4320-50

SUBJECT: Proposed Liquor License Application Process

RECOMMENDATION

The Planning and Development Department recommends that Council:

1. Approve the processes documented in Appendix I as the basis upon which the City will process applications for liquor-primary licenses and liquor license amendments;
2. Authorize staff to amend current policies to reflect the processes outlined in Appendix I;
3. Approve amendments to City Policy 0-8 "Development Proposal Signs" as documented in Appendix II that will require the installation of a development proposal sign on the site which the subject of any application for a liquor license amendment.

INTENT

The intent of this report is to provide further information to Council regarding the new liquor licensing regulations and to obtain Council approval of a new policy on processing applications for liquor-primary licenses and liquor license amendments.

BACKGROUND

In 2002, the Provincial Government adopted new liquor licensing regulations under the *Liquor Control and Licensing Act*. These new regulations came into effect on December 2, 2002.

Under previous liquor licensing regulations, there were 11 different classes of licenses, some of which contained sub-classes that were issued by the Province for establishments that served and/or sold alcohol. The type of licences that were issued ranged from dining establishments engaged primarily in food service, to hotels, cabarets, neighbourhood pubs and marine pubs.

With some classes of licenses, such as dining establishments engaged primarily in food service, applicants would obtain a liquor license directly from the Province. Local Government input was not required for such liquor licenses. For minor amendments to liquor licenses, such as the extension of hours or temporary liquor licenses, Local Government input was required. Applicants made application to the By-law Enforcement and Licensing Division who would refer the application to the Building Division and the RCMP and would present a short report to Council recommending that Council either approve or deny the application. The By-law Enforcement and Licensing Division would then forward Council's resolution to the Liquor Control and Licensing Branch (LCLB).

With some classes of licences, notably neighbourhood pubs, cabarets and licenses for clubs such as golf courses, the

applicant would submit a liquor permit application to the Planning and Development Department. The Planning and Development Department would prepare a Planning Report for Council's consideration. To gauge public opinion with respect to the proposed liquor license, Council would hold a public hearing to solicit views of interested individuals and businesses. Following the public hearing, Council would forward a resolution to the LCLB advising whether or not the proposed liquor license was supported.

New Liquor Licences

Under the regulations that came into effect in December, 2002, there are now only three major types of liquor licenses:

1. Food-Primary License;
2. Liquor-Primary License; and
3. Winery Licenses

Food-primary licenses are issued for those establishments whose primary focus is the serving of food. Food-primary licenses may or may not serve liquor or may have only a portion of the establishment licensed for serving liquor. Food-primary establishments with a capacity of 50 or more may apply to the LCLB for an endorsement to operate a separate lounge area in which liquor can be served without food. The maximum size of a lounge is 40 persons or 20% of the person capacity of the adjoining restaurant, whichever is less. The interior floor area of the lounge must not exceed 20% of the interior licensed floor area of the restaurant. Licences may have up to two lounges in operation at the same time; however, one lounge must be a patio.

Liquor-primary licenses are issued for those establishments that are primarily in the hospitality, entertainment or beverage-service business. This category may include establishments that are commonly known as bars, lounges, pubs, cabarets, as well as convention centres, stadiums, concert halls and recreation centres. Private clubs are a sub-category within the liquor-primary class of license.

Winery licenses allow the licensee to manufacture and store wine and provide samples of products to the public in a designated sampling area at the winery site.

Food-primary Licenses and winery licenses are issued by the LCLB and do not involve Local Government input. Liquor-primary licences, however, do require input from the Local Government.

Liquor License Amendments

In addition to liquor-primary licenses, Local Government input is also required for liquor license amendments. There are five types of liquor license amendments:

- (a) Addition of a patio to a liquor-primary licence or a winery lounge endorsement;
- (b) Addition of patron participation entertainment to a food-primary license;
- (c) Extension of hours of liquor service past midnight for a food-primary license;
- (d) Extension of hours of a liquor-primary licence or winery license endorsement; and
- (e) Increase in person capacity of a liquor-primary licence or winery license endorsement.

(To allow consumption of wine by the bottle or by the glass at the winery, wineries may apply for two types of endorsements: a picnicking endorsement that allows the consumption of wine at a designated outdoor area on the winery site or a winery lounge endorsement that allows the consumption of wine in an indoor area and/or a patio on the winery site.)

DISCUSSION

When making a decision on liquor licence applications that require Local Government input, the new regulations require that Local Governments gather the views of residents and businesses on the proposed liquor license and forward a recommendation to the LCLB. Local governments may use one or more of the following methods in gathering public opinion.

1. Receiving written comments in response to a public notice posted at the site and in local newspapers;
2. Conducting a public hearing;
3. Holding a referendum; or
4. Any other similar method.

Local Governments also have the option of not commenting on liquor-primary license applications or on liquor license amendments either by choosing not to comment on any license application in a specific geographic area or by choosing not to comment on a specific liquor license application and notifying LCLB accordingly. It is not recommended that the City opt out of providing comments to the LCLB since it is important from the perspective of the liveability of the City that liquor-licensed establishments be located and operated such that they do not cause impacts to the surrounding development and are not unduly concentrated in any area of the City.

Proposed Process For Liquor-Primary Applications

In the past, Surrey City Council has called a public information meeting in the form of a public hearing as a method to solicit the views of area residents and businesses with respect to any application that has been received for a neighbourhood pub, cabaret and club liquor license. This method of public consultation has generally worked well.

On this basis, it is recommended that, as a policy for all applications for liquor-primary licenses in the City that require input from City Council, that the applicant be required to submit a liquor permit application to the Planning and Development Department and that City Council continue to use the public hearings as a method to solicit views of area residents and businesses. In keeping with the notification process for public hearings associated with other types of land development applications, it is recommended that the notification radius for public hearings with respect to liquor permit applications be set at 100 metres (300 ft.). All owners and tenants of the properties within this radius from the site for which the liquor license is being sought will be mailed a notice of the public hearing. The public hearing will also be advertised in two consecutive editions of a local newspaper immediately prior to the public hearing. The Land Development Fee By-law already sets a fee for liquor applications (the current fee is \$1,120) and requires the applicant to pay an additional public hearing fee (currently set at \$730).

To provide additional notification to the community earlier in the application review process, it is also recommended that Council Policy O-8 which addresses the installation of "Development Proposal Signs" be amended to require that a development proposal sign be erected on the site of a proposed liquor permit applications within three weeks of the liquor permit application being submitted to the City. It is also recommended, with respect to all liquor-primary license applications, that pre-notification letters be sent to owners of properties within 100m (300 ft.) of the site which is the subject of the application. This will allow City staff an opportunity to become aware of neighbourhood concerns earlier in the process so that they can be addressed by the applicant prior to the application proceeding to City Council.

Should a rezoning application and/or other land development application requiring a public hearing be running concurrently with a liquor permit application, both applications can be considered at the same public hearing. After the public hearing, Council can pass a resolution supporting or not supporting the liquor-primary application. The City Clerk will then forward Council's resolution to the LCLB.

Proposed Process For Liquor License Amendments

The new liquor regulations require that Council gather public input for liquor license amendments, which was not the case under the previous regulations. It is recommended that all applications for liquor license amendments be processed by the Planning and Development Department as a liquor application.

As with liquor-primary license applications, it is recommended that the applicant be required to install a development proposal sign on the site, which is the subject of the application.

Since liquor license amendments are generally less significant in terms of potential impacts than liquor-primary licenses, rather than a public hearing as a method to gather public input, it is recommended that a process, similar to that used for development variance permits, be instituted to seek public input on these types of applications. In general terms, this includes an assessment by staff of the application, the submission of a planning report to Council either recommending that the amendment not be supported or recommending that staff be authorized to proceed to public notification to seek public input. The public notification letters would be sent by the City Clerk rather than the Planning and Development Department as an indication of Council involvement in the process. However, it is recommended that notification letters be sent to the owners and tenants of all properties located within 100m (300 ft.) of the site, which is the subject of the application and that a three week period be given for responses from the date of the letter. After the expiry of the three week response period, the application will be placed on a Council agenda, including a resolution for Council's consideration and any written comments received from the public. Council may adopt the resolution or refer the matter back to staff. Once Council has adopted a resolution, the City Clerk will forward the resolution to the LCLB. As noted previously, the Land Development Fee By-law already sets a fee for liquor applications at \$1,120. As a public hearing will not be necessary, a public hearing fee will not be charged for applications for a liquor license amendment.

CONCLUSION

The Provincial Government adopted new liquor licensing regulations under the *Liquor Control and Licensing Act*, which came into effect on December 2, 2002. Under these regulations Local Government input is required for liquor-primary licenses and liquor license amendments. Local governments are required to solicit public input for all types of liquor licenses that require local government input.

This report recommends a new City review and public input process (Appendix I) to deal with liquor license applications. It is proposed that all liquor-primary licenses and liquor license amendments be processed by means of a liquor permit application through the Planning and Development Department. It is proposed, in the case of applications for liquor-primary licenses, that a development proposal sign be installed on the site, which is the subject of the application, that City staff send pre-notification letters to surrounding property owners (similar to a typical rezoning application) and that a public hearing be used to solicit public input. In the case of applications for liquor license amendments, it is recommended that a development proposal sign be installed on the site, which is the subject of the application, and that public notification letters be used to obtain public input in a process similar to the public notification process used for development variance permits.

It is recommended that Council adopt the processes outlined in Appendix I as basis for seeking public input to liquor applications and that Council authorize staff to make appropriate amendments to the Council's Policy Manual to reflect the recommendations of this report.

Murray Dinwoodie
General Manager
Planning and Development

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Attachments:

Appendix I - Proposed Liquor Licensing Process

Appendix II - Proposed Amendments to Council Policy O-8

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Appendix I

LIQUOR LICENSING PROCESS

The *Liquor Control and Licensing Act* requires Local Government input on the following types of Liquor License applications.

1. Liquor-Primary Licenses

2. Liquor License Amendments as follows:
 - (a) Addition of a patio to a liquor-primary licence or a winery lounge endorsement;
 - (b) Addition of patron participation entertainment to a food-primary license;
 - (c) Extension of hours of liquor service past midnight for a food-primary license;
 - (d) Extension of hours of a liquor-primary licence or winery license endorsement; or
 - (e) Increase in person capacity of a liquor-primary licence or winery license endorsement.

Applicants who apply to the Liquor Control and Licensing Branch (LCLB) for any Liquor License that requires Local Government input must submit a Liquor Permit Application to the Planning and Development Department.

Applications for a Liquor-Primary License

Applicants will be required to erect a Development Proposal sign on the site, which is the subject of the application in accordance with Council Policy O-8.

Within three weeks of the submission of the Liquor Application, the Planning and Development Department will send a pre-notification letter to all owners of properties within 100 metres (300 ft.) of the site, which is the subject of the application.

Council will hold a Public Hearing to obtain public input regarding the application. Staff of the Legislative Services Department will send a Public Hearing notification letter to all owners of properties and tenants of properties located within 100 metres (300 ft.) of the site which is the subject of the application and will advertise the Public Hearing in 2 consecutive editions of a local newspaper in a process similar to that used for rezoning applications.

Applications for a Liquor License Amendment

Applicants will be required to erect a Development Proposal sign on the site, which is the subject of the application in accordance with Council Policy O-8.

Applications for Liquor License Amendments will be processed following the same procedures used for Development Variance Permits except that public notification letters regarding such applications will be forwarded by staff of the Legislative Services Department to the owners of properties and tenants of properties located within 100 metres (300 ft.) of the site which is the subject of the application and the letters will state that all comments must be submitted in writing to the City within 3 weeks of the date of the Public Notification letter.

Appendix II

PROPOSED AMENDMENTS TO COUNCIL POLICY O-8

It is recommended that Council Policy 0-8 Development Proposal Signs be amended by deleting Paragraphs 1, 4 and 9 in their entirety and replacing them with the following (note: new wording is shown in italics):

1. Applicants submitting development proposals involving one or more of the following shall be required to erect and maintain a development proposal sign or signs on the development site:
 - (a) Rezoning

- (b) Land Use Contract Amendment or Discharge
- (c) Temporary Use Permits
- (d) Development Permit
- (e) Subdivisions
- (d) *Liquor Applications*

4. Development Proposal Signs shall be erected on the site within six weeks, *or three weeks in the case of Liquor Applications*, of a development application being made, in accordance with the specifications prescribed by the general format as attached in Appendix I and the Planning & Development Department.
9. For applications involving a by-law, the Development Proposal Sign shall be removed by the applicant within 30 days after the final adoption of the by-law. For applications involving a Development Permit only, or a subdivision, the Development Proposal sign shall be removed within 30 days after the issuance of the Development Permit or within 30 days of the Approving Officer signing the subdivision plans. Development Proposal Signs shall be removed within 30 days after the applicant withdraws the application or Council denies or files the application, or in the case of subdivision, within 30 days of when the Approving Officer issues a denial letter. *For Liquor Applications, the Development Proposal Sign shall be removed within 30 days of Council adopting a resolution to be forwarded to the Provincial Liquor Control and Licensing Branch.*