

Report to Council



Date: October 28, 2024
To: Council
From: City Manager
Subject: Policy Amendments Relating to Liquor Policies 223, 310, and 359
Department: Development Planning

Recommendation:

THAT Council receive, for information, the report from the Development Planning Department dated October 28, 2024, regarding proposed amendments to Council Policies 223 and 359, and the rescindment of Council Policy 310.

Purpose:

To review in a workshop format various Council policies related to liquor licensing and receive further direction from Council.

Background:

In a Council meeting on October 21, 2024, staff proposed a series of updates to Liquor Licensing related policies. At that meeting Council expressed some concerns related to various aspects of the proposed updates. These concerns related to separation distances between liquor primary establishments and patio closures. Staff have updated the Council presentation to provide Council with greater context and clarity to inform discussion and direction to staff.

Discussion:

Council Policy No. 359 Liquor Licensing Policy & Procedures

The Liquor & Cannabis Regulation Branch (LCRB) requires Local Government input for various types of liquor license applications. Council Policy No. 359 Liquor Licensing Policy & Procedures guides staff review of liquor license applications and Council decision-making.

Staff last conducted a comprehensive review of this Council Policy in 2010. The focus of the previous review was primarily on the compatibility of the increasing redevelopment in the City's downtown core and the high concentration of liquor primary establishments (nightclubs, bars and pubs) within a small area of downtown. Council adopted the current version of Council Policy 359 on February 16, 2011.

Kelowna's liquor scene has evolved from a handful of night clubs to a tourist and economic driver. The City has seen a significant upswing in local manufacturing operation and liquor primary establishments to allow for a diversity of entertainment. With the evolution of these types of establishments coming to the City, an updated policy was needed to guide how these applications are processed, and the regulations liquor establishments must adhere to.

The current Council Policy does not adequately address this broader range of establishments. As evidence of this, in the past four years, Council has considered 36 liquor license applications, of which only 54% have been fully consistent with the existing policy. Council approved 94% of these applications. The majority of applications that did not comply with the policy was because the locations exceeded 100 persons, while not being located within a Village Centre or Urban Centre.

In reviewing Council Policy No. 359, staff have completed the following background research:

- Review of liquor policies in a variety of other BC jurisdictions and discussions with their staff to determine common practices;
- Engagement with external agencies, including, but not limited to, Interior Health, RCMP, Uptown Rutland Business Association, Downtown Kelowna Association and Tourism Kelowna;
- Engagement with internal City of Kelowna staff, including Community Safety, Business Licensing, Bylaw Services, and Long Range Planning; and
- Engagement with 11 private operators of liquor primary, manufacturing, and food primary establishments.

Below is a summary of changes being proposed:

- Addition of a Map
 - Attached to the policy is a new map that references a "Central Area". The purpose of the map and these areas is to outline different regulations for liquor establishments inside and outside of the Central Area.
- Hours
 - The current policy does not have a section dedicated to hours of liquor service. The LCRB, up until 2003, permitted establishments to be open until 2:00am. In 2003, the LCRB permitted establishments to remain open until 4:00am, however the City of Kelowna maintained the 2:00am closing time. In accordance with current practice and previous Council decisions, staff are proposing to limit closing times to 2:00am and require that outdoor patios cease operations by 11:00pm. In addition, it is proposed that liquor establishments outside of the Central Area be restricted to operate no later than midnight.
- Capacity
 - The current policy restricts establishments to no more than 500 persons. A proposed change is that larger establishments may be permitted if hours of operations do not extend beyond midnight. Any establishment seeking closing hours beyond midnight will continue to be limited to 500 persons. Additionally, staff are proposing to limit capacities outside of the Central Area to no more than 250 persons. Larger capacities can be considered where liquor service is provided in conjunction with alternative entertainment options that are less focused on alcohol consumption, including cultural or event-driven establishments.
- Siting
 - The current policy defines establishment types based on capacity (small, medium, and large), which are proposed to be removed. Based on the size of establishment a separation between

was required. Staff are proposing no separation requirements in the Downtown Urban Centre and a 250-meter separation outside of the Downtown Urban Centre when capacities exceed 500 persons.

- Patron Participation Endorsement
 - A section specific for Patron Participation Endorsements is being introduced in the updated policy. All Patron Participation Endorsements will be reviewed based on the hours, siting, and capacity requirements within all sections of the proposed policy.
- Temporary Changes to Liquor Licence
 - This section of the policy is being updated to provide details of how staff will be reviewing Temporary Changes to Liquor Licence. While the LCRB limits these changes to 6 times a year, staff are proposing to limit these events to 3 days in length. Consideration of these temporary changes will include other events already approved in the area and input from the RCMP.
- Notification Requirements
 - Public notification for new establishments will be aligned with Council Policy 367 – Neighbour Notification & Information for Development Applications.
- Other
 - The section on Retail Liquor Sales is being removed from the proposed policy. The previous Zoning Bylaw (Bylaw No. 8000) required rezoning to a subzone to permit the use of Retail Liquor Sales. In Zoning Bylaw No. 12375, the requirement for the subzone was removed and the land use requirement in the current bylaw falls under the use category of Retail.

Council Policy No. 223 Liquor and Cannabis Licences in Parks, Stadiums, and Facilities

The proposed changes include adjustments that align with current practices. Examples include recognizing that:

- an event may have licensed cannabis use, and
- an authorized liquor and cannabis licensed event may take place at various public areas of the city, not just Waterfront Park, City Park, Rotary Centre for the Arts Common, Knox Mountain Park, Parkinson Recreation Centre, Mission Recreation Park, Apple Bowl Stadium, Elks Stadium, King Stadium, Rutland Sportsfields, Ellison Softball Park, and the East Kelowna Sportsfields Park.

Council Policy No. 310 Designated Driver Awareness Program

Staff propose that Council Policy No. 310 be rescinded as it duplicates requirements of the LCRB. The LCRB ensures that requirements of liquor license holders are made available and acknowledged as part of the licensing process. The LCRB has jurisdiction to enforce these obligations, including imposing penalties for non-compliance. The Designated Driver Awareness Program will continue to be required through this authority.

Conclusion:

Based on the feedback from additional Council discussion and direction, staff will bring back the relevant policies, procedures and bylaw changes for Council consideration provided the changes don't require additional stakeholder consultation.

Internal Circulation:

Community Safety
Business Licencing
Bylaw Services
Long Range Planning

Submitted by: Jason Issler, Planner II

Approved for inclusion: Nola Kilmartin, Development Planning Department Manager
Ryan Smith, Division Director, Planning, Climate Action &
Development Services

Attachments:

Attachment "A": Council Policy No. 310
Attachment "B": Draft Council Policy No. 223
Attachment "C": Draft Council Policy No. 359