

# Report to Council



**Date:** November 25, 2024  
**To:** Council  
**From:** City Manager  
**Subject:** Policy Amendments Relating to Liquor Policies 223, 310, and 359 & Updates to Various Bylaws  
**Department:** Development Planning & Active Living and Culture

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**Recommendation:**

THAT Council Policy No. 310 being Designated Driver Awareness Program be rescinded;

AND THAT Council Policy No. 223 being Liquor Licenses in Parks and Stadiums and Facilities be revised as outlined in the Report from Development Planning Department & Active Living and Culture dated November 25, 2024;

AND THAT Council Policy No. 359 being Liquor Licensing Policy & Procedures be revised as outlined in the Report from Development Planning Department & Active Living and Culture dated November 25, 2024.

AND THAT Council receives, for information, the report from Development Planning, dated November 25, 2024, with respect to amending Development Application and Heritage Procedures Bylaw No. 12310, and Development Application Fees Bylaw No. 12552;

AND THAT Bylaw No. 12715, being Amendment No. 5 to the Development Application and Heritage Procedures Bylaw No. 12310, be forwarded for reading consideration;

AND FURTHER THAT Bylaw No. 12716, being Amendment No. 3 to the Development Application Fees Bylaw No. 12552, be forwarded for reading consideration.

**Purpose:**

To approve changes to various Council policies related to liquor, to update Development Application and Heritage Procedures Bylaw No. 12310, and to update Development Application Fees Bylaw No. 12552 with respect to liquor fees and annual increase of fees.

**Background:**

In conjunction with the liquor licence application process review, Staff have completed a review of existing Council Policies pertaining to liquor to ensure alignment with current practice and provincial legislation.

**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 provides guidance to applicants, Staff, and Council for 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 operations such as wineries, distilleries, and breweries, 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 is recommended to guide how these applications are processed, and the regulations liquor establishments must adhere to.

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.

Within the Central Area, an outdoor patio at a licensed establishment may not operate later than 11:00 PM. This requirement has been applied to patios for several years and aligns with the City's Bernard Ave Patio Program. Staff are proposing that liquor establishments outside of the Central Area may operate until midnight if the location of the liquor establishment is not adjacent to residential uses or any lot that is designated for residential use in the future.

- 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 requires proximities for Liquor Primary Establishments only and does so based on capacity (small, medium, and large). 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.

The proposed change is the result of the significant overlap between Food Primary Establishment's with Patron Participation Endorsement, Manufacturing Establishments with a Lounge Endorsement, and Liquor Primary Licences. These three forms of licences often contain food, amplified music, shows, and other special events. The neighbourhood impact, regardless of the types of licence, warrants equal consideration and regulated consistently via the liquor policy.

Without the proposed changes to siting requirements, and the direction of the updated Liquor Policy to regulate all types of liquor establishments, no further liquor or Food Primary establishments with Patron Participation Endorsement could be supported in majority of the Downtown Urban Centre, Brewery District, and Capri-Landmark Urban Centre.
- 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 included to provide details of how Staff will be reviewing Temporary Changes to Liquor Licence. Staff, with support from the RCMP, have been approving extended hours and larger capacities for several years but believe it is beneficial to include a section within the update to Policy 359. While the LCRB limits these changes to six (6) times a year, Staff are proposing to limit these events to three (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 closely with that of Council Policy 367 – Neighbour Notification & Information for Development Applications. All the requirements from Council Policy 367 have been added to Council Policy 359 with additional language giving flexibility for managers to require larger notification requirements than the minimum standard if site specific context requires it. Department managers may ask applicants for larger notification areas based on scale, context, and complexity of the application. An increase in the buffer could include providing notification to a block end rather than stopping mid-block or capturing nearby high-density residential areas that could be impacted.

Additionally, regardless of the capacity or the type of endorsement being requested, every liquor license application will require development signage advertising the application for further public awareness.

- 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 in designated areas, 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.

**Liquor Licence Applications:**

The current Liquor Licence Application process requires all liquor licence applications to be forwarded to a public hearing for Council consideration. In recent years, many legislative changes have led to a reduction of public hearings required per year. Applicants must often wait several additional weeks to be scheduled for a Tuesday Public Meeting, after applications are ready for consideration.

To decrease the length of time and cost for an applicant to fulfill the City's liquor licence process, Staff are proposing the following three different processes for liquor licence applications depending on the scale and endorsement the applicant is seeking:

1. Delegation of Authority to Staff (<99 Person Capacity)

The LCRB allows liquor licence applications to be considered by employees of the local government (Staff). Staff are proposing to delegate the review of new small-scale liquor establishments for both Manufacturing Licenses and Liquor Primary Licences and new endorsements. Small scale establishments will be defined as establishments with 99 persons or less. This change will allow for quicker approvals for small businesses that want to add a liquor component to their existing business or small-scale Manufacturing or Liquor Primary establishments. Recent examples include several hair salons, cigar shops, and other similar establishments.

In addition to small establishments, Staff are proposing that considerations for Patron Participation Endorsements (such as dancing) be delegated to Staff when the capacity is less than 250 persons. In recognition of this proposed process change, Staff recommend creating a lower fee for liquor

licence applications that are considered by Staff. The fee is consistent with the fee for Staff-delegated Development Permits.

2. Monday PM Meetings (100 to 250 Person Capacity)

When applicants are seeking larger capacities, Council consideration will still be required. Staff are proposing that medium establishments, which will be defined as an establishment with a capacity between 100 – 250 persons, be considered by Council at a Monday afternoon meeting. The benefit of Monday meetings is there are significantly more per year than Tuesday Public Meetings. This allows applicants to receive consideration by Council more quickly. Public input will still be solicited via Council Policy No. 359 and correspondence received will be summarized as part of the Council report. Council will have the opportunity to forward a liquor licence application from a Monday PM meeting to a Public Meeting if they believe further input from the public is needed.

3. Large Establishments (>250 Person Capacity)

Large establishments, which will be defined as an establishment with a capacity of greater than 250 persons, will still require consideration at a Tuesday Public Meeting in accordance with the existing process.

The proposed changes will result in quicker processing times and cost-saving opportunities for small and medium businesses applying for liquor licence application changes in the City of Kelowna. All liquor licence applications, as per the Liquor Control and Licensing Act, require applicants to notify nearby residents and post signage for any new or proposed change. Public input will continue to be fundamental to the review process of new liquor applications.

**Development Application Fees Bylaw Deferral of Annual Increase:**

In August 2023, Council adopted Development Application Fees Bylaw No. 12552 to improve fiscal management and cost recovery of the processing of development applications. The Fees Bylaw includes a provision that a 5% increase in fees shall be applied each year commencing January 1, 2025. Staff are recommending an amendment to the Fees Bylaw to defer the yearly increase for the year 2025 and apply the first 5% increase in 2026 for the following reason:

1. Software Replacement

The current software system for Development Planning is slated to be replaced in mid-2025, and the current system is no longer being maintained. To implement a fee increase prior to the software replacement would require significant Staff resources. The new software will have an automatic fee calculator that will make fee increases simpler to apply and provide greater clarity for applicants.

***Legal/Statutory Authority:***

Community Charter, Section 154, 194, 195  
Liquor Control and Licensing Act, Section 40  
Local Government Act, Section 462

**Internal Circulation:**

Community Safety  
Business Licencing  
Bylaw Services  
Long Range Planning

**Submitted by:** Jason Issler, Planner II  
**Reviewed by:** Trisa Atwood, Development Planning Manager  
**Approved for inclusion:** Nola Kilmartin, Development Planning Department Manager  
Ryan Smith, Division Director, Planning, Climate Action &  
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**Attachments:**

Attachment: Council Policy No. 359, 223, and 310

cc:

J. Taylor, Policy Analyst