

REPORT

Community Services

To: Mayor Johnstone and Members of Council
Date: September 9, 2024

From: Blair Fryer, Acting Director of Community Services
File: #2543975

Item #: 2024-505

Subject: **Business Licence Bylaw Modernization Update**

RECOMMENDATION

THAT Council endorse the next steps as outlined in this report.

PURPOSE

The purpose of this report is to provide Council with an update on work completed to date on modernizing the Business Licence Bylaw, and seek endorsement on the next step of proceeding with consultation.

SUMMARY

The reassignment of Business Licensing to the Economic Development division in 2022 provided an opportunity to complete outstanding work to ensure the City's business licensing approach reflects the current and evolving business environment. This work has included a review of available resources and tools for prospective and new businesses to facilitate start-up and growth, and to ensure that regulatory processes do not present overly onerous and unnecessary requirements on applicants and staff alike. A key part of this work has involved the update and modernization of the Business Licence Bylaw. This bylaw update has been guided by the City's regulatory responsibility around public safety, while striving to achieve efficiencies for business applicants and staff. Consultation on the draft bylaw is proposed throughout September 2024, with the bylaw anticipated to be presented to Council for readings in October and consideration of adoption by early November 2024.

BACKGROUND

The City of New Westminster issues licenses to approximately 4,000 businesses annually, including more than 160 different types of businesses, trades and professions. Regulations for these businesses are predominantly contained in Business Licensing Bylaw No. 5640, 1986, see *Attachment 1*. On July 11, 2022, staff took a report to Council outlining the business licence bylaw update process. Despite best efforts, available staff resourcing combined with the emergence of additional priorities has delayed completion of this work.

Regulation of Business

Community Charter

The City's general authority in relation to business regulation, as well as the requirements and limitations on that authority, is outlined in the *Community Charter* section 8(6), which states a council may, by bylaw, regulate in relation to business. The *Community Charter* also sets out authority to establish a system of licensing, permits and standards/approvals.

Section 15(1) provides a further non-exhaustive list of what a municipality may do through its licensing system, including:

- granting or refusing to grant licenses;
- prohibiting activities or things until a licence has been granted;
- setting the time period the licence is effective for;
- establishing terms and conditions of licenses;
- suspending or cancelling licenses; and
- establishing an appeal system for refusal, suspension or cancellation of licenses.

The *Community Charter* also sets out circumstances where municipalities may impose requirements or prohibitions in relation to certain categories of businesses:

- require people renting residential units to maintain a tenant registry;
- require buyers and sellers of second-hand goods to provide notice of sales and exchanges;
- prohibit altering, selling or exchanging second-hand goods during a specified time period;
- require waste from manufacturing plants to be disposed in a specific way;
- prohibit public performances in specified locations;
- prohibit the operation of public places of amusement; and
- prohibit specified professional athletic contests.

Local Government Act

The *Local Government Act* (LGA) previously provided municipalities with regulatory powers with respect to specific classes of businesses, however these have largely been

subsumed by the *Community Charter* (as outlined above). *Section 637* of the LGA does contain some language relating to business regulation and licensing (e.g. maximum and minimum charges that may be charged by commercial carriers of persons and things; establishment and alteration of routes taken by those carriers; and limits on the number of vehicles licensed to which persons in any class of carriers). The extent to which staff and the City employ these powers is established by Council direction, as set out in a municipality's business licence bylaw.

Current Business Licensing Approach Objectives

The Economic Development division's approach to business licensing is focused around:

- Simplifying and streamlining operational processes to be reflective of the current and evolving business environment
- Providing tools/processes that promote and reward compliance (e.g. permitting businesses to open and work towards building compliance)
- Developing efficiencies for both business applicants and City staff (e.g. implementing an online business licensing portal)
- Reducing regulatory burden (e.g. business licence fee review)

A significant component of this work is related to the modernization of the business licence bylaw to remove outdated requirements while maintaining appropriate regulations for the licensing and oversight of emerging and evolving industries. Staff have incorporated practical experience in processing applications, discussions with applicants and business stakeholders, and findings from the recent policy work and direction including the *Retail Strategy* and Council's *2023-2026 Strategic Priorities Plan* focus areas of People-Centred Economy.

DISCUSSION

An overview of the main themes that have been addressed in the Business Licence Bylaw review and update are summarized below.

- **Consideration of conditional licensing** – An analysis on conditional licensing was completed. Conditional licensing would allow those businesses considered low risk (e.g. a retail business in a recently inspected building that does not require Fraser Health approval) to open, operate and generate revenue as they work towards completing a minor, but outstanding, building deficiency. It is noted that these situations would require the support of the Chief Building Inspector. Variations of this approach shared by several other Metro Vancouver municipalities and one that is viewed as benefiting both businesses and municipal staff through increased efficiencies, where the risk is low.

- **Modernization of licence types** – This work has included the following,
 - Review of definitions and business specific regulations – Updating definitions, removing obsolete definitions and adding new business types where required in response to the current nature of business. Where regulations for specific business types have been reduced, the intent is to ensure the regulatory burden is commensurate with the current public safety risk (e.g. arcades, billiard halls, certain used-goods stores).
 - Consolidation of licence types – Consolidation of licence types (e.g. specific types of retail and consulting service categories) and elimination of duplicate/similar business categories. Where possible, the intent has been to use broader language with less-specific categories in an effort to future-proof the bylaw.
 - Liquor licenses– In recognition of changing community perceptions, consumer patterns and business activities, updates are proposed to some categories and fees relating to liquor establishments. This includes updating categories and language to better reflect provincial liquor categories and the range of activity that occurs in bars/pubs, manufacturing locations with lounges, as well as other businesses where beverage service isn't the primary business (e.g. arcades, spas, entertainment facilities, etc.).
- **General language and formatting updates** – General language updates were required, as well as a review to ensure compliance with freedom of privacy and protection regulations. Consideration was also given to moral versus legal regulations and language. The bylaw was also reformatted with subsections added for increased ease of reading and comprehension.
- **Review of licence fees** – A comparison focusing on surrounding municipalities of comparable size and/or context was conducted of common business licence fees. As a result, and in tandem with the City's standard annual fee update, changes to the fee schedule are proposed. These are outlined in the Analysis section of this report.
- **Licensing of non-profits** – Enhanced transparency and clarity around licensing requirements for non-profits is being added to the bylaw. While no fee is charged for these uses, provision of business licenses assists the City and stakeholders (e.g. business improvement associations) with data and knowledge as to the full spectrum of the businesses and services provided in the community. Wording has been incorporated to reflect and define non-profits within the new bylaw.
- **Relocating business operating regulations from Zoning Bylaw** – The Zoning Bylaw is a regulatory tool for land use and the Business Licence Bylaw applies to onsite business-related operations. These include regulations related to Home-Based Businesses, Massage Providers/Therapists, and Beverage Container Return Depots. A future housekeeping amendment to the Zoning Bylaw will remove regulations that have been relocated to the new Business Licence Bylaw. It is also acknowledged that an update around short-term rentals, currently

licensed as bed and breakfasts, is planned for 2025 in collaboration with Planning. Regulations on the trade, sale, and distribution of shark fins and products derived from shark fins would also be moved into the Business Licence Bylaw and the existing, separate bylaw repealed at a future meeting.

- **Increased clarity and transparency** – The draft bylaw is being written with a view to increasing the clarity and transparency of information gathering and sharing through the licence application process. Requesting more detailed, fulsome information at the business licence application intake stage provides staff with the full picture of intended business activities, enabling applications to be processed more efficiently and without unnecessary and time consuming questions back to the applicant. This also includes explicitly outlining the businesses where applications would be required to provide Police Information Checks (e.g. higher risk businesses). The current practice is for staff to forward to Police, and similar to above the intent is to have a fully informed application before staff review.

ANALYSIS

Proposed Changes to Business Licence Fees

Overview

Business Licence fees are established to cover the cost of administration, enforcement, and reviews and inspections by Business Licensing, Integrated Enforcement (Bylaws), Planning, Building, Parks, Engineering, Police, and Fire. Staff are proposing changes to Business Licence fees in three ways:

- All 2024 business licence fees adjusted to the nearest whole number, based on a 3.0% estimated rate of inflation (CPI), with the following two exceptions:
 - Commercial Vehicle Fees for Taxi, in alignment with the Inter-Municipal TNS Business Licence Scheme Bylaw No. 8391, 2023; and
 - Inter-Municipal Business Licence (IMBL) fee proposed to be increased from \$250 to \$300 within an upcoming IMBL Bylaw update, anticipated to be brought forward to Council October 7, 2024. Other municipalities within the IMBL group will be bringing similar reports forward to their respective Councils at the same time.

Note: this 3% CPI is in alignment with the Finance Department's recommended annual fee review.

- Reductions in certain Liquor Licensing fees; reflective of the relative workload for processing these applications, and to align with other similar municipalities.
- Wording changes for clarity and alignment with proposed draft Business Licence Bylaw.

An overview of 2024 and proposed 2025 licence fees is included in *Attachment 2*. Moving forward, staff recommend a comprehensive fee review be undertaken every five years, with more modest reviews being completed annually.

Alignment with other Municipalities

As part of the review of Business Licence fees, a review of common Business Licence fees across other municipalities of comparable size and/or context in Metro Vancouver was undertaken. Also taken into consideration was the general demand on City resources by licence type. Every municipality determines fees differently (based on number of employees, per unit, number of seats, flat rate, size of building, etc.). In order to ensure comparison of fees as similarly as possible, employee and size assumptions were made for common licence types. See *Attachment 3* for the municipal scan.

Proposed Reductions

Liquor Licensing

The recent scan, along with feedback from businesses in the business class, highlighted that some current liquor license fees are higher than those established by other municipalities. In an effort to remain aligned with other municipalities, and with the goal of setting rates that reflect the current environment, complexity of processing applications and required staff resources, fee decreases are proposed for some liquor licence fees.

Historically, liquor licence fees were set at higher rates in recognition of the staffing resources that were required for their regulation. In the past, these licence types often required additional work from Police, Bylaws, Licensing and Planning in the administration of new applications as well as annually with respect to calls for service. Changing times and business operations mean that staff are no longer required to spend as much time on liquor-related files. As such, reductions in liquor licence fees are proposed, which better reflect both the resources required to process them, and the regional municipal fee average. The proposed change to liquor licensing fees is estimated to result in an approximate \$40,000 reduction in annual business licensing revenue. Recognizing that liquor establishments have historically been a community concern, staff will be reaching out to residents’ associations in close proximity to commercial areas that include liquor primary businesses as part of the next steps in consultation.

NEXT STEPS

The City’s Arts, Culture and Economic Development Advisory Committee (and previously the Economic Development Advisory Committee) has been engaged throughout the bylaw update project. Next steps include the following activities to conduct business and interest group consultation:

- two virtual focus group sessions

- notice of the focus groups and link to draft bylaw through Invest New West e-newsletter (approximately 1,450 subscribers) and CityPage (approximately 1,760 subscribers)
- emails to business organizations and residents’ associations outlining the opportunities for feedback

After the consultation period has ended, staff will analyze feedback, consider relevant changes and prepare a report to Council with a final draft of the bylaw. The intent is to have the new bylaw adopted by early November in order to make the necessary adjustments to fees ahead of licence renewal notices in late November.

Action	Date
Consultation – focus groups, Citypage & Invest New West notices, emails to interest groups	September 4 – September 30, 2024
Council report – update on Business Licence Bylaw work	September 9, 2024
<i>Provincial Election (September 21 – October 19)</i>	
Council consideration of Business Licence Bylaw for 1 st , 2 nd & 3 rd Readings	October 21, 2024
Notification of Business Licence Bylaw for Opportunity to be Heard and consideration of adoption	October 25 – November 4, 2024
Business Licence Bylaw Opportunity to be Heard and Council consideration of bylaw adoption	November 4, 2024
Business Licence renewal notices mailed out	Late November

After the business licence bylaw modernization work is complete, staff will be implementing a new online business licensing application portal. This new system will improve business licensing processes by creating efficiencies for applicants and staff, enhancing customer experience, and making doing business with the City easier and faster.

FINANCIAL IMPLICATIONS

Staff is recommending wording changes for clarity and that most rates be increased by approximately 3.0% on January 1, 2025 generating a net revenue contribution of approximately \$0.01M, inclusive of the \$40,000 reduction in fees related to liquor licensing. Business licensing revenue for 2024 is on target to meet the annual target of \$1.73M.

INTERDEPARTMENTAL LIAISON

This project is was led by staff from the Economic Development division with support and input from Integrated Services (Bylaws), Planning, Building, Fire, Police, Finance as well as the City Solicitor.

OPTIONS

Options for Council's consideration include:

1. THAT Council endorse the next steps as outlined in this report.
2. THAT Council Provide staff with alternate direction.

Option 1 is recommended.

ATTACHMENTS

Attachment 1: Existing Business Licence Bylaw

Attachment 2: Summary of Proposed Changes to 2025 Business Licence Fees

Attachment 3: Municipal Scan of Common Business Licence Fees

APPROVALS

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