



Meeting 2016 Jul 21

COMMITTEE REPORT

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| TO: | CHAIR AND MEMBERS FINANCIAL MANAGEMENT COMMITTEE | DATE: | 2016 July 13 |
| FROM: | DIRECTOR FINANCE | FILE: | 46000-01 |
| SUBJECT: | BURNABY BUSINESS LICENCE BYLAW | | |

RECOMMENDATION:

1. **THAT** Financial Management Committee recommend Council authorize staff to prepare a new Burnaby Business Licence Bylaw as outlined in this report.

REPORT

1.0 BACKGROUND

Council's authority to regulate and licence business activity is provided for in the Community Charter. The Burnaby Business Licence Bylaw #3089 is the primary bylaw designed to regulate businesses activity and promote compliance with applicable bylaws and legislated requirements. The current bylaw was originally adopted in 1950 December and since that time has been amended a total of 32 times. The regulations contained within the bylaw help ensure the protection and safety of the public, minimize nuisances and guard against misleading business practices.

In conjunction with the work that is currently underway to implement the Licence, Inspection and Permits System, Licence staff and the City Solicitor have conducted a thorough review of the Burnaby Business Licence Bylaw in an effort to modernize it in coordination with the Licence, Inspection and Permits System application project currently underway. This report identifies proposed bylaw changes to more closely reflect today's business practices.

The current bylaw provides the Chief Licence Inspector the power to grant a licence once satisfied that the applicant has complied with all regulations regarding zoning, building occupancy, health, sanitation, and business operation in respect of the proposed business.

Currently upon receipt of an application, Licence staff first confirm that the required zoning checks are completed prior to processing the application. Once this step is done a review of the business regulations that may apply to the proposed business are confirmed. If both steps are successfully completed the licence is placed in a pending status and the business is permitted to operate until all other regulations are confirmed.

The expertise to determine if a business is compliant with the other requirements rests within other departments or external agencies. To obtain input from these departments or agencies application referrals are distributed for review. A single business licence application can result in

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multiple referrals and in some cases an onsite inspection of the proposed business location. In most cases pending business licences are transitioned to an approved status after departments and agencies return approved referrals.

In 2015, upon initial request 742 licences applications were approved the same day the application was received. The balance of approximately 1,400 applications, were referred for further review. A further 422 applications were voluntarily withdrawn by the operator prior to the licence being approved.

1.1 Business Licence Volume

Since 2012 the number of business licence applications received by the Licence Office has increased yearly with more than a 20% increase over the four year period.

Yearly Business Licence Applications Received 2012 – 2015

| Year | 2012 | 2013 | 2014 | 2015 |
|---------------------------|-------|-------|-------|-------|
| # of Licence Applications | 2,133 | 2,252 | 2,445 | 2,568 |

Over 91.5% (1,964) of all business licence applications received in 2015 were transitioned from pending to approved within 180 days. A further 5.3% (136) took between 181 and 540 days to complete and 1.75% (45) licences are still operating in a pending status.

2.0 OPPORTUNITY FOR BUSINESS PROCESS IMPROVEMENTS

2.1 Faster Review and Follow Up

With the introduction of the Licence, Inspection and Permits System the sharing of business licence application information between departments will be accomplished electronically. The new system will facilitate more information gathering from applicants at the intake stage providing an opportunity for the initial review to be more fulsome, and in many cases sufficient to allow for faster approval of routine business licences thereby allowing staff more time to process complex applications. Business licence applications for operations that are found to be non-compliant based on the initial information provided will be denied at the intake stage. The status of business applications forwarded to other departments or agencies can be reviewed online and automated communications sent to clarify delays in the approval process.

2.2 Addition of a New Licence Status

Currently the City has two Burnaby Business Licence statuses: denied or approved. These two statuses do not fully reflect the business application process which allows for the operation of most businesses during the referral review process, although the licence application is under review and not approved.

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It is therefore recommended that Council consider a third licence status: Conditional Business Licence. This licence would be issued by the Chief Licence Inspector at the request of the referring departments when a business is compliant based on the information provided in the application, but additional time to gather information or complete inspection of the premise is required before an application can be approved.

Conditional Business Licence holders will be made aware of the terms of this licence and that the Conditional Business Licence has a fixed end date. The lawful continuation of the operation of a business beyond this date is dependent on the business being fully compliant with the conditions required for the issuance of an approved business licence.

Conditional Business Licence holders may be advised at any time during the term of their Conditional Business Licence to cease operations if it is found that the business is unable to qualify for an approved business licence.

It is proposed that the Conditional Business Licence be valid for a period of up to 180 days. The fee for the Conditional Business Licence will be the same as the first year business licence fee based on the nature of the business being licenced.

3.0 BUSINESS LICENCE CATEGORIES AND FEES

The fees that are collected as part of the municipal business licencing program are intended to be revenue neutral and are charged to recover the cost of administering the licence program. The licence fees charged in respect to the first year of a business operation are generally higher than the annual renewal fee due to the additional City resources required for approval of the initial licence.

3.1 *Non-Refundable Application Fee*

It is proposed that a \$50 non-refundable application fee be established to cover the cost of the application during intake.

3.2 *Licence Fees*

It is proposed to group the existing business licence fees contained in the current business licence bylaw into fee groups based on the dollar value of the fees. The proposed fee groups would continue to reflect the numerous permitted uses contained in the Zoning Bylaw but condense the number of fees. Staff are working on the development of a new fee schedule and a plan to implement the required changes. This will be the subject of a later report to FMC in the fall.

4.0 LICENCE TYPES

It is proposed that the new bylaw establish:

- two additional licence categories, *Special Event Business* and *Film Location Business*
- clarify a new process and fee for Not-For-Profit businesses
- a new fee for businesses types that have a Shared Location

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Special Event Business licences will be issued to qualified businesses initiating a short term event such as a major sporting competition, carnival, concert or similar activity that charges a fee and is transitory. The licence will be valid for a period of 30 days after issuance and regulations contained in the bylaw will permit the Chief Licence Inspector to require additional provisions such as insurance, security or to limit the hours of operation if it is deemed necessary. The proposed fee for the licence will be \$150.00.

Film Location Business licences will be issued to film productions companies that do not occupy a physical location in Burnaby but are conducting business in the City. Due to recent changes in federal legislation around the use of foreign workers, the Licence Office has experienced an increase in requests from film production companies for a business licences. Currently film production companies that are not located in Burnaby are issued a Mobile Business Licence. The fee for a Film Location Business Licence is proposed to be \$75 which reflects the limited processing time required to review and approve an application.

Not-For-Profit Business organizations are identified as a licence fee category, but are not identified as a licence type. It is proposed to identify a Not-For-Profit business as a licence type and to amend the current process for the issuance and the annual renewal of the Not-For-Profit business licence.

It is proposed that Not-For-Profit business organizations be charged a \$75 first year fee and a \$35 renewal business licence fee. Currently, a Not-For-Profit business is issued a onetime licence when the operation initially opens no fee is charged. The requirement that a business, including a Not-For-Profit organization, obtain and renew an annual business licence will help ensure that the business remains compliant with required bylaws and regulations.

Shared Location Fee will apply to a licenced business in retail sales or another service industry that shares space with a compliant business operation.

The first licenced business to operate at a location will pay a first year business licence fee. Any following qualified business to operate from the same shared location will pay the equivalent of a renewal fee in the first year of operation. All business licence holders will be required to pay the full annual renewal fee.

A Shared Location Fee equivalent to the renewal fee is applicable given that site inspections to confirm the suitability of the premises is not required for subsequent business applicants. The bylaw will identify those businesses for which a Shared Location Fee is permissible. To qualify the business operation must be contained in a single location and share an address. This type of arrangement is common amongst doctors who often share a location although they are each considered independent businesses.

5.0 ANNUAL LICENCE RENEWAL PROCESS

The adoption of the Burnaby Bylaw Notice Enforcement Bylaw 2009 June provided measures to enforce bylaw compliance. The additional fee provisions in the current licence bylaw are now redundant.

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The current bylaw stipulates that all business licences expire on December 31 of each year. To encourage timely renewal, the addition of a penalty fee of \$50 at 30, 90 and 150 day to all past due accounts is included in the current bylaw.

It is proposed in the new Business Licence Bylaw that all licences continue to expire on December 31, and that all licence holders be contacted on November 01 advising of the need to renew their licence before December 31. On December 01 a second notice would be sent to any business that had not submitted renewal payment by that time. On January 01 the system would set all outstanding licence accounts unpaid to “expired”. All expired licences would then be subject to an additional fee and would have until March 01 to pay the required renewal amount and the additional fee. One final notice would be sent to all outstanding licence holders after January 01 advising of the amounts outstanding and the implications of continuing to operate past March 01.

After March 01 any business found operating without a valid business licence would be subject to a Bylaw Enforcement Notice. In order to reinstate their business licence, the operator will be required to make a new application and pay a first year business licence fee.

6.0 RECOMMENDATION

Council’s consideration of the proposed Burnaby Business Licence bylaw changes outlined in this report is requested. Once the operational date for the Licence and Inspection System is confirmed a new Burnaby Business Licence Bylaw will be presented to Council for consideration and adoption, and the repeal of the existing bylaw will be requested.

It is recommended that Financial Management Committee recommend Council consider and approve the proposed amendments and authorize Licence staff to prepare a new Burnaby Business Licence Bylaw.



Denise Jorgenson
DIRECTOR FINANCE

DJ:DL:RR/ew

Copied to: City Manager
City Solicitor
Director Planning and Building