

REPORT

Office of the Chief Administrative Officer

To: Mayor Cote and Members of Council **Date:** July 11, 2022

From: Lisa Spitale,
Chief Administrative Officer **File:**

Item #: 2022-523

Subject: Business License Bylaw Modernization

RECOMMENDATION

THAT Council endorse the direction for revising the Business License Bylaw as outlined in this report.

PURPOSE

The purpose of this report is to seek endorsement from Council on the policy direction, scope and extent being proposed for modernization of the Business License Bylaw.

SUMMARY

The reassignment of Business Licensing to the Economic Development division provides an opportunity to update the City's business licensing approach to better reflect the current and evolving business environment. This includes ensuring that both resources and tools are readily available for prospective and new businesses to facilitate start-up and growth, and that regulatory processes do not present onerous and unnecessary requirements on applicants and staff alike. The modernization of the Business License Bylaw will be guided by the City's regulatory responsibility around public safety and consumer protection, while transitioning the City to a risk-based regulatory framework.

BACKGROUND

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 license has been granted;
- setting the time period the license 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 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 the proposed business bylaw modernization work plan below.

Business Licensing Approach Overview

The Economic Development division's approach to business licensing is guided by the following objectives:

- Simplifying and streamlining operational processes to better reflect the current and evolving business environment
- Providing tools that promote and reward compliance
- Developing efficiencies for both business applicants and city staff
- Reducing regulatory burden

A significant component of this work is related to the modernization of the business license bylaw to remove outdated and obsolete requirements while maintaining appropriate regulations for the licensing and oversight of emerging and evolving industries.

Concurrently, staff are undertaking initiatives to improve business licensing system technology and processes to better support staff while creating efficiencies, enhancing customer experience, and making doing business with the City easier and faster. Examples of this work include development of an online business licensing application portal, updating and translation of how-to-guides, and work to streamline the business license renewal process.

Risk-Based Licensing

As noted, the ongoing review of business licensing by the Economic Development division is being undertaken through a risk mitigation lens. Under this model, licensees considered as higher risk - as determined by their business activity - would receive an increased level of regulatory review and compliance oversight, whereas licensees considered lower risk would benefit from reduced regulatory burden. The risk-based approach enhances compliance and effective enforcement efforts by focusing the City's resources on higher risk businesses, while creating efficiencies for lower risk businesses. A review of several business sectors have revealed that some historically viewed as 'increased risk' is out of step with current reality. In those cases where business sectors have evolved over time and now have less risk exposure (e.g. nuisance behavior) to the community, this approach can remove onerous process, regulatory requirements, and costs to doing business. Concurrent with this work is the review and development of an enforcement system focused on public safety that clearly and transparently outlines different stages of consequences for those businesses violating City bylaws.

Additionally, technological innovation and changing social patterns have resulted in non-traditional service delivery of business services and products (i.e. online, electronic, virtual, etc.) As such, more nuanced and dynamic regulations are needed to ensure that objectives related to business support and promotion, and

risk mitigation, such as safety, and nuisance control, can continue to be met, while achieving efficiencies for business applicants and staff.

DISCUSSION

The City of New Westminster issues licenses to over 160 different types of businesses, trades and professions. Regulations for these businesses are predominantly laid out in Business Licensing Bylaw No. 5640, 1986. In 2017, an update of the business license bylaw was initiated, however due to staff resourcing challenges, never completed. As staff revisit this bylaw modernization, an overview of the proposed work to be undertaken includes:

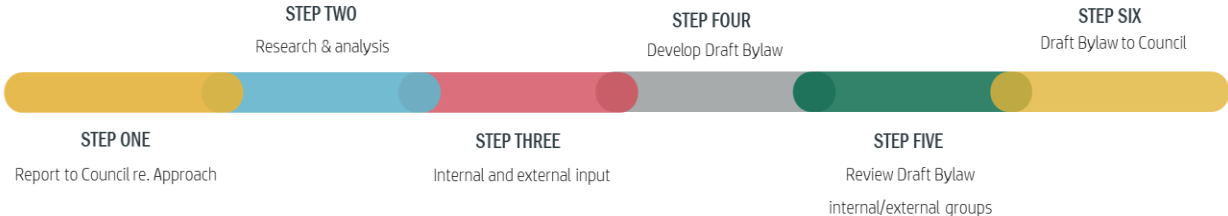
- **Consideration of conditional licensing** – As part of the review of the City’s risk-based approach, an analysis on conditional licensing will be completed. Conditional licensing would allow those business considered low risk (e.g. retail businesses in previously/recently inspected buildings that do not require Fraser Health approval) to open prior to receiving an inspection and formal business license. This is an approach taken in several other Metro Vancouver municipalities and one that is viewed across the board as benefiting both businesses and city staff through increased efficiencies.
- **Historically problematic uses** – A review of categories that have historically solicited concerns in the community, such as arcades, billiard halls, vending machines, adult retail, adult entertainment, raves, karaoke venues, used pre-owned goods and body rub/massage providers will be conducted. The overall intent will be to ensure the regulatory burden is commensurate with the public safety risks these types of businesses now pose.
- **Modernize liquor categories** – In recognition of changing patterns and activities, a component of the business bylaw modernization will include a review of categories and fees relating to liquor establishments. This will include updating categories and language to better reflect provincial categories and the range of activity that occurs in bars/pubs, manufacturing locations with lounges, as well as entertainment venues.
- **Consolidate license types and processes** – This includes consolidation of license types and processes (e.g. food trucks, specific types of retail or consulting categories) and elimination of duplicate/similar business categories and regulatory processes.
- **Respond to new and evolving industries-** The nature of business has changed significantly since the business license bylaw was last reviewed. Several licensing categories are now outdated and staff often deal with applications for a new type of business not contemplated by the existing bylaw (e.g. ghost kitchens, crypto currency farming, mobile businesses, etc.) Consideration will be given to establishment of new license types, including temporary or short-term pop-up licenses, and removal of outdated categories

(e.g. shoeshine, tea reader). The overarching goal is to future-proof the bylaw by including broader language with less-specific categories.

- **General language updates** – An overall general language update is required, as well as a thorough review for freedom of privacy and protection consideration. Consideration will be given to removing any moral vs. legal (i.e. separation of church and state) language in the process.
- **Review of license fees and structure** – A municipal comparison of business license fees with an emphasis on categories such as liquor, arcades and rental housing units will be conducted. This will also include an analysis of the pros and cons of multi-year licenses.
- **Licensing non-profits/societies** – Enhanced clarity around licenses for non-profits and registered societies will be provided. Currently, there is no fee charged for these uses, however, provision of business licenses for these uses can assist the City and stakeholders (e.g. business improvement associations) with data and knowledge as to the full spectrum of the businesses and services provided.
- **Updates to complimentary bylaws** – The work will also include potential amendments to the Zoning Bylaw, Sign Bylaw (clarity around business signage on street level stores) and the bylaw governing business license fees to consolidate, simplify and enhance clarity around business related regulations.

NEXT STEPS

Staff will commence the review and analysis over the summer and intend to solicit input from stakeholders, both internal and external, in the early fall. Stakeholder input will be solicited from local business associations, Indigenous partners, the City’s Economic Development Advisory Committee, and a business/non-profit focus group.



The revised business license bylaw will inform the subsequent roll-out of e-apply online business license application portal.

FINANCIAL CONSIDERATIONS

There are no financial implications beyond what has already been approved in the current year's budget. The bulk of the work to modernize the Business License Bylaw will be undertaken by existing staff, and any minor costs associated with the modernization process will be funded from the approved Economic Development division operating budget. The comprehensive review of business licensing is expected to result in streamlining and modernization of license categories and processes. Future proposals to amend the business license fee structure may result in financial implications given the related potential impact on licensing fees charged. Staff will report to Council on these potential impacts as the work progresses.

OPTIONS

Options for Council's consideration include:

- 1. **THAT** Council endorse the direction for revising the Business License Bylaw as outlined in this report.
- 2. **THAT** Council Provide staff with alternate direction.

Option 1 is recommended.

INTERDEPARTMENTAL LIAISON

This project is being led by staff from the Economic Development division. Staff from other departments involved in the business licensing process, including Fire, and Climate Action, Planning and Development (Planning, Building and Bylaws), have been, and continue to be, consulted throughout the process.

APPROVALS

This report was prepared by:
Carolyn Armanini

This report was reviewed by:
John Stark

This report was approved by:
Lisa Spitale, Chief Administrative Officer