CITY OF **VANCOUVER**

POLICY REPORT
LICENSING

Report Date: July 28, 2005
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TO: Standing Committee on Transportation and Traffic

FROM: Chief License Inspector in consultation with the Fire Chief and the Chief Building Official

SUBJECT: Pilot Project Regarding Capacity for Liquor Primary Licensed Beverage Establishments

RECOMMENDATION

THAT Council approve a pilot project for six to twelve months that will permit an increased occupant load for select licensed beverage establishments in conjunction with testing enhanced life-safety building improvements, as generally outlined in Appendix A.

GENERAL MANAGER'S COMMENTS

The General Manager of Community Services RECOMMENDS approval of the foregoing.

COUNCIL POLICY

Amendments were made to the Vancouver Fire By-law on July 27, 1999 and the Vancouver Building By-law on July 18, 2002 that limited the number of occupants permitted in a licensed beverage establishment by requiring that occupant load be restricted to half that permitted for unlicensed assembly purposes.

PURPOSE AND SUMMARY

The purpose of this report is to initiate a pilot project that would consist of approximately three to six Liquor Primary licensed beverage establishments testing an increased occupant load as well as enhanced life-safety building features. This report refers only to Liquor

Primary licensed beverage establishments. Staff will review occupant load in restaurants (Food Primary licensed beverage establishments) as part of the upcoming restaurant review. Staff anticipate that this broader restaurant review will commence shortly after the completion of the Planning Department's current restaurant entertainment review.

The results of this pilot project will be reported back to Council in the summer of 2006. If the project is successful, staff will recommend appropriate amendments to the Fire and Building By-laws.

BACKGROUND

Occupant loads are calculated by the Fire and Building Departments, and are used to establish satisfactory standards of life and health safety for both licensed and non-licensed establishments. Generally occupant load is calculated based on a room's net floor area. While other municipalities in B.C. calculate occupant load only via net floor area as per the Province of B.C. Fire and Building Codes, Vancouver has a unique additional provision in its own Fire and Building By-laws for licensed establishments ("A licensed beverage establishment is an assembly occupancy….where alcohol may be consumed and may include lounges, pubs, recreational centers, community halls, cabarets, neighborhood pubs…"). The City of Vancouver's additional condition requires double the number of exits (exit capacity) for licensed beverage establishments than that of non-licensed spaces. This doubling provision is in place to ensure safe exiting for situations in which alcohol may impair judgment and response time. The net effect is that this provision lowers the total number of occupants permitted in a licensed establishment in Vancouver compared to the rest of the province.

The entertainment industry raised the issue of how Vancouver calculates occupant load for licensed establishments, essentially arguing that capacity can be increased without compromising patron safety as evidenced by the higher occupant loads allowed elsewhere in B.C. A related issue for City staff is the regular overcrowding in many bars and nightclubs. Staff from Licenses, Fire and Building worked together in recent months to determine whether there was potential room to move on Vancouver's occupant load calculations. In the end, staff determined that changes will not be considered to the doubling of exiting provision for life-safety reasons, but that there is potential to look at new occupant load factors for calculating capacity. This would simplify the calculation process and hopefully help gain better compliance from the industry thus reducing the potential for overcrowding.

Other Jurisdictions

The U.S. Fire Administration reported that:

- Among all structure fires, nightclub fires in the US are proportionately few in number (0.3%), but over-capacity crowds at nightclubs create the potential for high numbers of casualties in the event of a fire.
- Local jurisdictions that do not routinely inspect nightclubs or are lax in enforcing existing safety regulations increase the potential for a fatal nightclub fire.
- A common safety violation at nightclubs is locked or blocked exits.

Anecdotal evidence from a variety of news reports showed similar themes regarding the state of fire safety in clubs. Examples included exit doors and hallways that were blocked by storage, locked exit doors, missing or unlighted exit signs, and owners who routinely allowed the club to exceed occupancy limits.

Following the Rhode Island nightclub fire, many U.S. jurisdictions reviewed their fire safety codes or increased inspections of local nightclubs to enforce existing codes (in particular, sufficient egress, illuminated exit signs, occupancy limits, and sprinkler requirements).

Research from Canadian municipalities raised similar issues – problems with exiting came up often in the literature as did exceeding occupancy limits.

DISCUSSION

Occupant Load Calculation – Vancouver's Fire and Building Departments

The occupant load for a licensed beverage establishment is calculated by the Fire Department using an occupant load of 1.2 m^2/person for all areas, regardless of the layout or use of floor space. The Building Department uses an occupant load factor that ranges from 0.4 m^2/person to 1.2 m^2/person depending on the use of floor space shown on floor plans. Because the occupant load factors used by these two departments are different, the outcomes can be different. The most restrictive of the two figures is used for enforcement purposes.

Using more than one figure to calculate the maximum permitted occupant load for an establishment makes the process more complicated for staff and other agencies relying on this information. There is little consistency, and the applicant is often left confused by the two numbers.

Occupant Load Calculation - Vancouver and the Rest of B.C.

Vancouver's special provision for licensed establishments requires exit capacity to be double that of a non-licensed assembly space, which can result in a lower capacity number for licensed establishments. For the rest of the province, occupant load is calculated as per the B.C. Fire and Building Codes, which do not have the "licensed beverage establishment" category (it was removed from the Provincial codes in 1998). Therefore there is no difference between how occupancy is calculated for licensed and non-licensed establishments, and exit capacity is the same as for all assembly uses whether alcohol is served or not.

Proposed Calculations

City staff worked together to come up with a single appropriate occupant load factor that could be used throughout the entire area of a licensed beverage establishment regardless of the use. This factor needed to be conservative enough to allow a general level of comfort from all departments, but also be responsive to the industry and in line with other jurisdictions. Staff feel that using a single 1.0 m^2/person factor to calculate occupant load (in conjunction with the life-safety improvements to the building described below) would provide consistency across City departments and simplify the process. This change would allow for an approximate 20% increase in capacity without sacrificing life safety, and create more clarity for applicants and staff.

Associated Life-Safety Building Improvements

Approving this capacity increase goes hand-in-hand with implementing recent advances in the field to ensure life safety in a panic or emergency situation (i.e. any incident that results in the mass exiting of a premise - fire, bomb threat, pepper spray, other violence)

The options that staff recommend (that also have industry consensus) are:

- sprinkler protection;
- fire alarm systems; and
- sound system shut-down and automatic lights-on, in the event of an alarm.

As well, certain measures would have to be in place to ensure that the new, greater occupant load number was enforced. Staff recommend making a new technology - automatic people counters - mandatory for larger venues (150 occupants and above). These counters have been used in the retail industry for some time and are seen as a reliable tool to determine head counts, track the number of occupants coming and going from a venue, and prevent overcrowding (for more information, see Appendix B). The cost is not prohibitive, and the benefit is evident – the number of people in a venue is monitored independently and continually thus it is straightforward to comply with the official occupant load number. Another benefit is that the support software for the people counter can provide auditing data for the operator. At this point, more information must be gathered before staff can recommend a particular type of counter. Performing pilot tests at some of the local venues would provide useful feedback to staff and venue owners.

Pilot Project

While the License, Fire, and Building Departments have developed a unified position on a new occupant load factor that is appropriate for calculating capacity (1.0 m^2/person) and the life-safety measures that should be required, staff acknowledge that both the increase and the technologies should be tested before being implemented in a broad fashion**.** As well, the National and Provincial Building Codes are expected to undergo re-writing next year, thus it would be prudent to review the new building codes before making any amendments to our City Building By-law. Conducting the pilot project in these intervening months is an opportunity to test and verify, and then line up with these larger regulatory changes.

In essence, the proposed pilot project is a means to test out the new occupant load factor and observe any impacts, test the life-safety enhancements/technologies suggested and their efficacy, and get the industry involved. The pilot project would provide a level of comfort to both City staff and the industry that everything proposed is effective and cost-efficient.

If Council approves the pilot project, staff will draw on industry groups like ABLE BC (The Alliance of Beverage Licensees) and Barwatch to notify potential participants in the project. Some venue owners have already expressed casual interest in testing out the automatic counters, and staff will work with these people and others to get a good sample group established. The participants would be screened, and only those operators in good standing with no existing violations would be considered. As well, different types and sizes of venues will be included in the pilot. The project is anticipated to take place over six months and conclude in the spring/summer of 2006.

Implementation

Staff anticipate that if the pilot project proves successful and the by-law changes are made, the capacity increases would be gained via applying for new occupant load certificates. Capacity will be calculated the same way, with the same exclusions – only the factor used to determine area capacity will change. In terms of "grandfathering", staff expect that if some existing establishments can't comply with the new life-safety requirements, they will not be allowed to apply for an increase. They will, however, be allowed to retain their current valid City of Vancouver occupant load certificates.

Public Consultation

Staff met with industry in early June and late August, and found the overall response positive. There was support for all of the life-safety measures proposed, however there was some initial concern expressed about the potential cost of the automatic counters. Following more explanation about approximate cost, accuracy, and wide-spread use, the counters received more broad support. There were several questions posed about calculations and exclusions, and there was some interest in timing and implementation.

FINANCIAL IMPLICATIONS

There are no financial implications.

CONCLUSION

Staff recommend initiating a pilot project to increase area capacity for three to six licensed beverage establishments in exchange for testing enhanced life-safety building improvement measures.

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Pilot Project Details

- duration
  - six to twelve months

- participants
  - three to six venues

- notification
  - via industry groups like Barwatch and ABLE BC
  - via industry meeting (August 19, 2005)
  - direct mail solicitation

- criteria for inclusion
  - operator in good standing
  - operator committed to providing detailed feedback to City staff
  - venue contributes to variety of sample – i.e. we would like different types and sizes of venue
  - venue contributes to *representative* cross-section of industry

- technology
  - staff would work with several automatic counter companies so that they might provide the equipment free or at a reduced rate for the duration of the pilot project
  - staff could then compare amongst the different types of counter, and the different providers

Automatic People Counters

Overview

Beam Type Counters

- Generally, a people counter unit counts whenever an infra-red beam across a doorway is broken.
- It can be programmed to count either one count per break (in or out, for a 2 door shop) or one count per two breaks (for a single door venue).
- People are counted on an hourly basis and saved in the counter unit's internal memory. This memory can be read by running the counter software on a computer running Windows.
- There are usually two models to chose from: single site for single door applications, and multi-site for multi-door applications
- It's possible to generate printouts of hourly, daily and weekly totals. The counter unit itself will generally hold up to one week of counts.
- Downloaded data can be saved to a file on the computer's hard drive. This file can be loaded back into the counter's computer software for viewing historic data or the file can be imported into a spreadsheet like Microsoft Excel for further processing.
- Downloading can be either done manually or automatically (using a program like Windows Task Scheduler).
- System requirements are generally: a computer running Windows, a spare serial port, a kit from one of the manufacturers (i.e. beam unit and reflector, counter unit, adaptors and wiring, software)

CCTV Type Counters

- Another, less common option is a system that uses small CCTV cameras mounted above the entrance to be monitored to count people.
- The video feed is then sent back to a unit which analyses the picture and determines how many people are moving and in which direction they are traveling.
- Data is saved in the box until it is downloaded to a PC, where reports are complied.
- System requirements are generally: a computer running Windows, a kit from one of the manufacturers (i.e. video turnstile, dome CCTV camera, camera-detector lead, software)

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