



CITY OF VANCOUVER

POLICY REPORT
LICENSING

Report Date: September 22, 2009
Contact: Lily Ford
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Meeting Date: October 8, 2009

TO: Standing Committee on Planning and Environment

FROM: Director of Licenses and Inspections and Chief License Inspector

SUBJECT: Hours of Liquor Service and Revised Business License Categories and Fees for Restaurants

RECOMMENDATION

- A. THAT Council approve an amendment to the License By-law providing hours of liquor service and additional regulations for food primary liquor establishments, as outlined in this report and in Appendix A.
- B. THAT COUNCIL approve an amendment to the License By-law to assign to the Chief License Inspector the executive or administrative power of Council, set out in Sections 11.1 and 11.3 of the Liquor Control and Licensing Act, to provide to the general manager under that Act comments on any proposed license application, or amendment to a license issued under Section 12 of that Act, so long as the Chief License Inspector may choose to refer any particular application or amendment to Council for comment.
- C. THAT Council revise business license categories for restaurants as outlined in this report and in Appendix A, and increase annual business license fees for restaurants with liquor service by \$3.00 per seat¹, with increased estimated revenues of \$450,000 annually commencing in 2010.
- D. THAT Council authorize the Director of Legal Services to bring forward a License By-law amending by-law, generally as outlined in this report and in Appendix A, to implement Recommendations A, B, and C.

¹ A 63% increase in 2009 rates of \$4.85 per seat.

GENERAL MANAGER'S COMMENTS

The General Manager of Community Services RECOMMENDS approval of A, B, C, and D.

COUNCIL POLICY

On October 6, 2005, Council approved amendments to Section 2 of the Zoning and Development By-law to allow amplified musical instruments and an unlimited number of entertainers in Restaurant Class 1 establishments. Dancing and other patron participation entertainment remained exclusive to Restaurant Class 2 establishments. Concurrently, Council approved amendments to the License By-law and Noise Control By-law prohibiting live entertainment in all restaurants (both Class 1 and Class 2) between the hours of midnight and 9:00 am.

On April 8, 2003, Council instructed staff to withhold support for all Food Primary liquor license applications requesting hours of liquor service beyond midnight.

SUMMARY

This report provides recommendations for hours of liquor service for licensed restaurants, which are known under Provincial regulations as Food Primary establishments. This policy review originates in a December 2002 update of Provincial regulations, which extended the maximum allowable liquor service closing time from 2:00 am to 4:00 am, with the stipulation that Food Primary establishments requesting hours of service later than midnight would require local government support. (Allowable opening times for Food Primary establishments begin at 9:00 am province-wide, and are not subject to local input.) Shortly after the new Provincial regulations took effect, the City suspended action on all applications from licensed restaurants requesting closing times² later than midnight, pending development of an hours of liquor service policy. As a result, all restaurants licensed since 2003 must stop liquor service at or before midnight. In contrast, many restaurants licensed prior to the Provincial update serve liquor past midnight, and in some cases as late as 2:00 am. The Food Primary industry and some members of the public are eager to see a policy that allows for later hours of service.

Determining an appropriate closing time for licensed restaurants raises a number of regulatory, land use, economic, and public safety considerations. What is an appropriate closing time? Should restaurant closing times be the same as those for bars and clubs? If so, should an increase in regulation accompany later hours of liquor service? Should closing time be the same throughout the city, or should it be earlier in residential districts? Can residential areas be effectively designated in an increasingly mixed-use context? What are the economic, social, and public health consequences of concentrating late night hours in limited areas of the City? What are the public health and public safety impacts of late night liquor service in restaurants? These and related questions were raised in consultations with City staff³ and the

² "Closing time" here, and throughout the report, refers to the close of liquor service, which, in some cases, may differ from the close of business. Restaurants, whether licensed or not, can remain open 24 hours, but may only serve liquor during the hours of liquor service specified on their liquor license.

³ including representatives from the Vancouver Police Department, Fire Department, Central Area Planning, Development Services, Social Planning, Housing, and Drug Policy

Food Primary and Liquor Primary industries, as well as in public open houses, surveys, and a public opinion poll.

The City's review of hours of service in licensed restaurants raises a number of issues from both industry and public perspectives. In stakeholders meetings, Food Primary industry representatives expressed a desire for later closing times and a "level playing field" where licensed restaurants would enjoy uniform closing times on a par with each other and with Liquor Primary establishments. Representatives of the Liquor Primary industry felt that some extended hours were acceptable, but cautioned that many restaurants were already operating like bars, and argued that licensed restaurants should be subject to increased regulation if they were to enjoy the privilege of late night hours.

Participants in public meetings and in an informal survey expressed strong views. Many advocated later closing times to encourage economic and cultural vitality and accommodate a youthful workforce with non-traditional hours. Others expressed concern that later hours would only add to their neighbourhood's burden of noise, disorder, and violent crime, and consume public resources unnecessarily. A public opinion poll of City residents, however, revealed few strong opinions, and general support for limited late night liquor service in restaurants.

A general tolerance for late night liquor service is further supported by an analysis of noise complaints received from April 2008 to April 2009, during the City's first year of noise by-law enforcement (complaints previously were handled by Vancouver Coastal Health). In total, 48 complaints, regarding 32 Food Primary establishments, were received during that time period. Thus only 0.03% of the over 1,000 licensed restaurants in the City were the subject of complaint. While these totals do not include calls made to police, they do suggest that few citizens felt compelled to pursue all official avenues of redress for noise complaints.

Staff thus recommends that Council pass a by-law amendment that allows licensed restaurants to serve liquor until 1:00 am weekdays and 2:00 am weekends, throughout the city. Restaurants that are currently licensed to serve liquor past those closing times would be required to follow the new closing times, as existing hours would not be grandfathered.⁴ To address concerns regarding late-night drinking, and to reinforce the distinction between Liquor Primary establishments and licensed restaurants, staff recommends that Council add regulations mandating service of a full menu of food items throughout all operating hours, and requiring a minimum of 50% food sales during any eight-hour period. Staff further recommends that Council increase license fees by \$3.00 per seat to provide increased funds for by-law enforcement.

There are over 1,000 Food Primary establishments in Vancouver, most of which have closing times earlier than those proposed at least one day a week. It is anticipated that many of those establishments will opt for later hours should Council approve them. Thus, in order to allow timely implementation of the recommended policy, and to streamline future processing of amendment requests, staff recommends that Council assign to the Chief License Inspector the executive or administrative power of Council to approve future amendments to Food Primary licenses.

⁴ Should Council wish to allow grandfathering of hours, it would need to adopt the hours of service as a policy, not a by-law provision. This option is not recommended, as it would reduce the City's enforcement ability, and eliminate the "level playing field" sought by the Food Primary industry.

Lastly, staff recommends that the business license categories for Food Primary establishments be consolidated as shown in Appendix A. Currently, a Food Primary establishment must obtain both a Restaurant license and a Dining Lounge license. Under the proposed change, Food Primary establishments would require a single license, Restaurant with Liquor. The current restaurant classes, Class 1 and Class 2, which specify allowable forms of entertainment, would still apply, although these categories may be consolidated pending review by the Planning Department.

PURPOSE

This report provides recommendations regarding licensed restaurants, including hours of liquor service regulations, stronger requirements for food service during all operating hours, and revised and consolidated business license categories and fees.

BACKGROUND

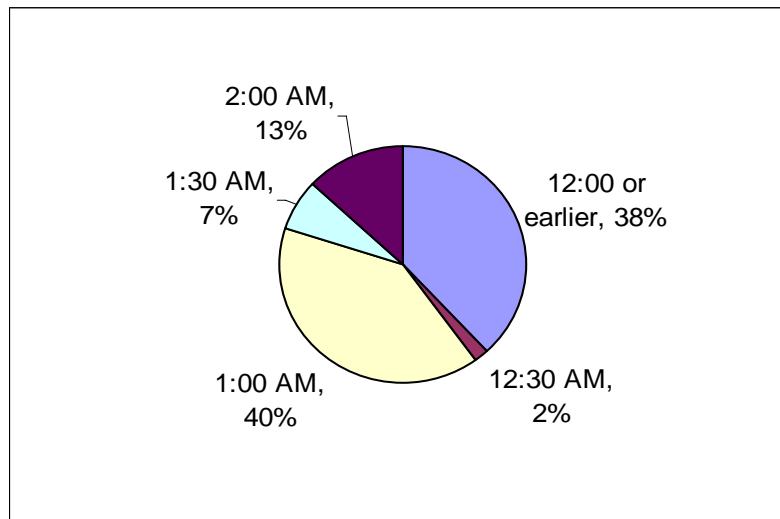
Existing Food Primary Establishments

There are approximately 1,500 restaurants operating in the city. Roughly 1061 of these restaurants, with a capacity of approximately 157,000 seats, hold a provincial Food Primary liquor license. Licensed restaurants are found in all commercial and mixed use areas of the city, with nearly half (42%) located in the Downtown peninsula. Although the highest concentration is located Downtown, licensed restaurants are more evenly distributed throughout the city than Liquor Primary establishments, 72% of which are located in the Downtown area. They are also more numerous (there are only about 250 Liquor Primary licensees in the city).

Liquor service in licensed restaurants begins and ends at a wide variety of times. Opening times range from 9:00 am to 1:00 pm Closing times, which are the focus of this report, range from 7:00 pm to 2:00 am As shown in the figure below, 62% of existing restaurants have hours of service past midnight, and the median closing time is 1:00 am Sixty percent of licensed restaurants have a 1:00 am or later closing time six days a week⁵; conversely, 80% of licensed restaurants have a 1:00 am or earlier closing time seven days a week. Approximately 13% of licensed restaurants in the City have a 2:00 am closing time any day of the week.

⁵ Eighty-eight percent of existing licensed restaurants close at midnight or earlier on Sundays, the result of previous Provincial regulations.

Figure 1. Existing Hours of Liquor Service in Restaurants



The various closing times are fairly evenly distributed throughout the City, with no obvious relationship between a given restaurant's closing time and the characteristics of the surrounding community. As such, restaurants within the same neighbourhood often have different closing times. Since 2003, applicants for new Food Primary licenses have been kept to a midnight closing time, as Council has withheld support for any applications requesting hours of liquor service past midnight, pending development of an hours of liquor service policy.

Existing Business License Categories and Fees for Licensed Restaurants

Currently, operators of licensed restaurants must have two business licenses: a Restaurant license, which allows them to operate a full service restaurant, and a Dining Lounge license, which allows them to serve liquor with meals. Within the Restaurant category, two classes of licenses are available: Restaurant Class 1, which allows live entertainment; and Restaurant Class 2, which allows live entertainment and patron participation entertainment, such as dancing and karaoke. An additional category, Restaurant Class 1 with Lounge, allows operation of a restaurant with an area where liquor may be sold without food.

Current license fees for any class of Restaurant are \$662.00 per year for new licenses, and \$612.00 per year for renewals. An additional annual fee of \$4.85 per seat is paid for a Dining Lounge license, with a \$50.00 additional fee for new licenses. Each year, the License Office prepares an administrative report to Council proposing an across-the-board inflationary adjustment in business license fees which reflects the estimated growth in City costs for the following year. This year, the proposed inflationary increase is 4%, resulting in a \$686.00 license fee for new restaurants, a \$636.00 license fee for renewals, and a \$5.00 per seat fee for Dining Lounge licenses. These increases are included in the revised fee schedule found in Appendix A.

Regulatory Issues

Liquor licensing is regulated at the Provincial level by the Liquor Control and Licensing Branch (LCLB). The LCLB has the authority to issue, amend, or revoke a liquor license. Local government's role in liquor licensing is restricted to supporting or opposing liquor license applications, and regulating the associated business license. Local government can also set policy regarding the operation of liquor establishments, including hours of service.

LCLB regulations distinguish two categories of on-premises liquor establishments: Liquor Primary establishments, which include bars, pubs, cabarets, and nightclubs; and Food Primary establishments, which include licensed restaurants and cafes. The City licenses Liquor Primary establishments as either "Extended Hours Liquor Establishments" or "Standard Hours Liquor Establishments," with seven classes of licenses, based on seating capacity, within each license category. The City requires Food Primary establishments to receive a "Dining Lounge" license in addition to their Restaurant Class I or II license. The City and Provincial definitions of the two classes of liquor establishments are as follows:

Table 1. Food Primary and Liquor Primary Licensing Definitions

	COV License By-law	Provincial Regulations
Food Primary	"Dining Lounge" means a restaurant business that sells alcoholic drinks to customers for consumption on the premises as part of a meal.	"Food-primary" refers to a licensed establishment where the service of food, as opposed to liquor, is the primary focus of the business.
Liquor Primary	"...Liquor Establishment..." means a business the primary purpose of which is the sale and service of alcoholic drinks to customers for consumption on the premises.	"Liquor-primary" refers to a licensed establishment where the service of liquor, as opposed to food, is the primary focus of the business.

Council finalized an hours of service policy for Liquor Primary establishments in May 2006. The approved hours of service in Liquor Primary establishments are detailed in Business Premises Regulation of Hours By-law No. 8022. This report only addresses hours of liquor service for Food Primary establishments.

Changes by the LCLB

The December 2002 update of Provincial liquor laws enacted significant changes to the Liquor Control and Licensing Act and the Liquor Control and Licensing Regulations. The effect of the update on Food Primary regulations can be summarized as follows:

1. some liberalization of liquor service: patrons may order liquor without ordering food, provided that the establishment is operating as a restaurant throughout all of its licensed hours. Inspectors examine how the establishment is operated (food-liquor ratio, the establishment's menu, kitchen equipment, entertainment, furnishings, lighting, and general operations), and how many people are being served liquor without food, and how often;

2. elimination of the regulation that permitted liquor service/consumption only while seated - patrons are now able to stand and walk within a restaurant's liquor licensed area with liquor in hand;
3. creation of the "restaurant lounge" endorsement, which allows Food Primary establishments with 50 or more seats to set aside 20% of their capacity (to a maximum of 40 seats) for food-optional liquor service; and
4. establishment of new hours of service regulations: Food Primary operators may apply for hours of service to 4:00 am, with a new requirement that Food Primary liquor license applications requesting hours of operation beyond midnight obtain a local government resolution supporting the application (under the previous regulations no local government resolution was required or possible, maximum closing time was 2:00 am, and the hours of liquor service for restaurants were set through LCLB policy).

Impacts of LCLB Regulation Changes

The new regulations for Food Primary establishments extended the maximum allowable closing time from 2:00 am to 4:00 am, while at the same time requiring local government approval of hours of service past midnight. Once the new regulations became effective, the LCLB -- and, subsequently, the City -- received numerous applications for extended hours. In response, on April 8, 2003, Council instructed staff to withhold support for applications from Food Primary establishments requesting hours of service past midnight. As a result, all Food Primary establishments licensed since 2003 must stop liquor service at or before midnight, and all other Food Primary establishments have been unable to extend their hours of operation past midnight.

The new regulations also lessened the differences between Food Primary and Liquor Primary establishments. Under the new regulations, a Food Primary establishment can serve drinks without food, as long as its receipts from a 24-hour period show that liquor sales do not exceed food sales. In a "restaurant lounge" area, which can include up to 40 seats depending on the size of the restaurant, no food service is required. Patrons can also walk around Food Primary establishments with their drinks and mingle as is typical in Liquor Primary settings.

In contrast, the City's definition of a "Dining Lounge" (which is the business license category for Food Primary establishments) is a "restaurant business that sells alcoholic drinks to customers for consumption on the premises *as part of a meal*" (emphasis added). Serving drinks without food, although permitted under Provincial regulations, is thus a violation of the Food Primary establishment's business license. The new provincial regulations thus created a discrepancy in local and Provincial regulations and enforcement priorities.

At the same time, the blurred distinction between licensed restaurants and bars reduced the ability of enforcement staff (primarily Property Use Inspectors and Vancouver Police Department patrol members) to identify by-law violations. To the casual or trained observer there is little difference between patron and staff behaviour in many restaurants and in Liquor Primary settings. As a result, it is now easier for some restaurateurs to operate outside of their class of liquor license (i.e. like a bar) undetected.

Regulatory Distinctions between Restaurants and Bars

Despite the increasing similarities between licensed restaurants and bars, Food Primary and Liquor Primary establishments remain subject to different regulatory requirements. While Liquor Primary establishments in many parts of the City have later closing times than proposed for restaurants, they are also subject to many more regulations. Both types of establishments must obtain a business license and meet zoning requirements; however, Liquor Primary establishments are subject to location restrictions and a variety of operating regulations such as training and identification measures for staff, entry/exit requirements, hiring of security personnel, and acoustical standards. In addition, in order to open a liquor primary establishment, a public consultation process, including solicitation of input from neighbouring residents, must be conducted.

Provincial and municipal requirements for public consultation are limited for Food Primary establishments. Under the City's Zoning and Development By-law, no public consultation is required to open a restaurant in many commercial districts, where "Restaurant Class 1" is an outright use. Under Provincial regulations, no public consultation is required to open a Food Primary establishment with a closing time of midnight or earlier. Public consultation is only required for Food Primary license applications that include hours of service after midnight, or patron participation entertainment. Thus many licensed restaurants can open with no opportunity for input from the adjacent community. However, should Council adopt a policy that allows for hours of service past midnight, applications for the later hours will be subject to public consultation.

Table 2 below provides a comparative overview of current regulations for Food Primary and Liquor Primary establishments.

Table 2: Comparison of Regulations for Food Primary and Liquor Primary Establishments

	Characteristics	FOOD PRIMARY	LIQUOR PRIMARY
1	Application Process	<ul style="list-style-type: none"> relatively short reduced or no public consultation 	<ul style="list-style-type: none"> relatively lengthy and complicated public consultation for all applications
2	New Location Availability	broad potential for new establishments	limited locations for new establishments
3	Operating Regulations	few regulations	many regulations
4	Enforcement	difficult to prove operating outside of liquor license classification	violations are easier to document
5	Liquor Service	<ul style="list-style-type: none"> more than 50% of sales must be from food over 24-hour period (Provincial) Must serve drinks only with a meal (City) food optional liquor service in Lounge endorsement areas - restaurants of 50 or more 	able to legally serve alcohol without food during all hours of operation

		seats can apply for and obtain permission for 20 percent of their seating area up to a maximum of 40 seats with no public consultation	
6	Age Restrictions	no restrictions but must be 19 or older drink alcohol	must be 19 or older to enter
7	Types of Permitted Entertainment	<ul style="list-style-type: none"> • can provide live band sized entertainment with amplified musical instruments • dancing only permitted in Restaurant Class 2 businesses 	can provide a variety of entertainment during all hours of operation, including patron dancing and exotic entertainment
8	Restrictions on Entertainment	<ul style="list-style-type: none"> • new maximum interior decibel level • live entertainment, including amplified musical instruments must end by midnight, but stereo can be played during all operating hours 	restrictive conditions on a site by site, ad hoc basis
9	Closing Time	existing closing times to 2:00 am	Closing times between 1:00 am and 3:00 am, depending on day of week and sub-area
10	Opening Hours of Liquor Service	9:00 am	9:00 am with extended hours of operation and 11:00 am with standard hours of operation
11	General Hours of Operation	24 hour food service, except in the Downtown Eastside/Strathcona area	restrictions on alternative uses in off hours

The current regulatory environment provides advantages to restaurants in terms of application process, new location availability, operating regulations, opening times and general operating hours. Restaurants have a mixed advantage with respect to entertainment in that they can provide similar entertainment, with public consultation only for patron participation entertainment, but have specific restrictions on duration and maximum sound levels. Also, Liquor Primary establishments can provide exotic entertainment, unless there is a specific prohibition on their liquor license. Restaurants cannot provide exotic entertainment because minors can legally enter a restaurant during all hours of operation.

The age restriction results in advantages to both restaurants and Liquor Primary establishments. Families with children under the age of 19 provide a wider customer base for licensed restaurants, particularly in tourist areas; however, as noted above, the minimum age restriction provides more entertainment options for Liquor Primary venues.

Liquor service, basically the ability to legally serve a patron alcohol within the parameters defined by the LCLB (i.e. responsible liquor service as set out in the Serving-it-Right program), is an advantage for Liquor Primary establishments. While the liberalized liquor service allowed in restaurants under the updated Provincial regulations has somewhat narrowed that advantage, the City's License By-law clearly defines a Dining Lounge as a restaurant where alcohol is served as part of a meal. Food service, not liquor service, must be the primary activity in a licensed restaurant.

Council policy regarding closing time also provides a tangible difference and clear advantage for Liquor Primary operators. Current Council policy allows extended Liquor Primary closing hours between 1:00 am to 3:00 am depending on the sub-area and day of the week. These hours of liquor service are equal to or later than those enjoyed by the majority of licensed restaurants.

Closing Time in Other Cities

Staff investigated the closing time policies of other municipalities in the Lower Mainland, in Canada, and abroad. Many municipalities outside of British Columbia distinguish less between types of liquor establishments (i.e., the categories of Food Primary and Liquor Primary are unique to BC), and have the same closing time policies, and in many cases the same operating regulations, for all on-premises liquor establishments. Most municipalities in Canada and the U.S. have a 2:00 am closing time for all on-premises liquor establishments, although some major cities, including Chicago, New York City, and Montreal, have later closing times (between 3:00 am and 5:00 am), and New Orleans allows 24 hour service. Hours of service in Europe, Australia, and New Zealand, in general, allow more liberal late-night hours, although Sydney has recently reduced hours of service, and Auckland may soon do the same.

Locally, Richmond, New Westminister, and Burnaby have set maximum closing times of 2:00 am, whereas Surrey allows a 2:00 am closing time on weekends and a 1:00 am closing time during the week. North Vancouver has not adopted a closing time policy, and assesses each application individually. A table outlining the closing time policies of other cities is included as Appendix B.

DISCUSSION

Staff Recommendation

Staff recommends that Council enact a by-law amendment prohibiting liquor sales in licensed restaurants between 1:00 am and 9:00 am Mondays through Fridays, and 2:00 am and 9:00 am Saturdays and Sundays, with a half hour tolerance period, at the end of which drinks must be removed from tables. Restaurants that are currently licensed to serve liquor past those closing times would be required to follow the new closing times, as existing hours would not be grandfathered.⁶ An alternative to extend liquor service to 2:00 am seven days a week is discussed on page 20.

Staff further recommends that Council add by-law provisions to ensure that licensed restaurants are primarily engaged in food service. These provisions require licensed restaurants to offer a full menu of food items throughout all operating hours, and to generate a minimum of 50% of sales from food, not liquor, during any eight-hour period, to be verified by receipts upon request.⁷ Staff also recommends that Council increase license fees by \$3.00

⁶ Should Council wish to allow grandfathering of hours, it would need to adopt the hours of service as a policy, not a by-law provision. This option is not recommended, as it would reduce the City's enforcement ability, and eliminate the "level playing field" sought by the Food Primary industry.

⁷ Reducing the time period from 24 hours (as required by the Province) to eight hours increases the effectiveness of the 50% sales rule. Under the 24-hour system, late-night liquor receipts may be "diluted" by breakfast and/or lunch receipts, which typically include fewer liquor sales. Under the eight-hour system, liquor sales from dinner to closing time must be no higher than 50%.

per seat to provide increased funds for by-law enforcement. The fee schedule found in Appendix A also includes an inflationary adjustment (which is generally applied each year) of 4%.

Lastly, staff recommends that the business license categories for Food Primary establishments be consolidated as shown in Appendix A. Currently, a Food Primary establishment must obtain both a Restaurant license and a Dining Lounge license. Under the proposed change, Food Primary establishments would require a single license, Restaurant with Liquor. The current restaurant classes, Class 1 and Class 2, which specify allowable forms of entertainment, would still apply, although these categories may be consolidated pending review by the Planning Department.

Public Consultation

Staff conducted two series of consultations with stakeholders and the public. In June 2008, staff presented its initial draft policy at meetings with the Food Primary and Liquor Primary industries and at two public open houses. Along with an invitation to the stakeholders' meetings, staff sent all Food Primary and Liquor Primary establishments a survey form, which was later made available at the open houses and in on-line format through the License Office's Liquor Licensing Review website. In November 2008, staff presented a revised policy proposal at a joint meeting with the Food Primary and Liquor Primary industries, and at a subsequent open house. The majority of comments received were in response to the initial draft policy presented in June 2008. Summaries of the two consultation periods, and two draft proposals, are presented separately below.

In addition, staff contracted with Angus Reid Strategies, a leading research firm, to conduct a public opinion poll on hours of liquor service in licensed restaurants. The poll included 400 people from throughout the city, and data was demographically weighted to be representative of the population. Results of the poll, as well as the results of other public consultation activities, are discussed in turn below.

June 2008 Public Consultation: Initial Draft Policy Proposal

In June 2008, staff presented an initial draft policy to industry representatives and to the general public through targeted mailings, a series of stakeholders meetings and open houses, and on-line surveys. The initial draft policy for restaurant hours of liquor service was based on the system of seven sub-areas that was established by the City during its hours of service review for Liquor Primary establishments. The closing times proposed in the initial draft policy are shown in the Table 3 below. The current extended closing time for Liquor Primary establishments in each sub-area is also shown for comparison. Hours of service in the seventh sub-area, which encompasses the Downtown Eastside neighbourhood, were to be addressed in a separate review.

Table 3. Closing Times - Initial Draft Policy

Regulation Area	Proposed Food Primary Closing Time	Existing Liquor Primary Closing Time (Extended Hours)
Downtown Commercial	1:30 am 7 days/wk	3:00 am 7 days/wk
Downtown Mixed-Use	1:00 am 7 days/wk	3:00 am Fri - Sat 2:00 am weekdays
Downtown Residential	1:00 am Fri - Sat 12:00 am weekdays	2:00 am Fri - Sat 1:00 am weekdays
Non-Downtown Commercial/Industrial	1:00 am 7 days/wk	3:00 am 7 days/wk
Non-Downtown Mixed-Use	1:00 am Fri - Sat 12:00 am weekdays	2:00 am Fri - Sat 1:00 am weekdays
Non-Downtown Residential	1:00 am Fri - Sat 12:00 am weekdays	2:00 am Fri - Sat 1:00 am weekdays

Approximately 60 people attended the Food Primary stakeholder meeting held on June 12, 2008. Comments from attendees were overwhelmingly in support of later hours than provided in the Initial Draft Policy, and against the sub-area system. Approximately 40 people attended the Liquor Primary stakeholder meeting, some of whom owned both Liquor Primary and Food Primary establishments. The discussion at this meeting focussed more on the comparative advantages enjoyed by restaurants, including lack of operating regulations, and the need for more enforcement, particularly in the case of restaurants "acting like bars."

The June 17, 2008 and June 24, 2008 open houses drew a total of approximately 60 members of the public, as well as some restaurant owners. The second open house, in particular, saw spirited debate between proponents of later hours of service, and those who opposed hours of service past midnight. Few expressed satisfaction with the proposed policy.

As detailed in Table 4 below, 345 individuals submitted surveys, and nine others phoned or e-mailed comments. Although a variety of views were expressed, most of those who answered our on-line survey and/or attended public meetings wanted later closing times than proposed in the initial draft policy. Many supported a 2:00 am closing time throughout the City, while

others supported either a 1:00 am closing time, on one hand, or much later hours (2:30 am and later).

Table 4. Public Comments Received Prior to November 2008

Comment Type	Number Received	Support earlier hours	Support later hours	Other
Food Primary Industry Survey	103	6	68	29
LP Industry Survey	14	6	5	3
General Public Survey	228	13	180	35
E-mail Comment	6	2	4	0
Phone Comment	3	2	1	0
Totals	354	29	258	67

The majority of those offering comment supported later hours than those in the initial draft proposal. Most of those in the Food Primary industry supported later hours. Commenters from the Liquor Primary industry were divided on later hours for their counterparts in the restaurant industry, citing other issues, such as the relative lack of regulation for restaurants, as bigger issues. Among the general public, the high percentage of support for later hours may be, in part, the result of a campaign conducted through a Facebook site called "Stop Vancouver's Bedtime Police."

Common themes emerged from the comments advocating later hours. Primary among them was the desire for more diverse late-night entertainment opportunities that would meet the needs of visitors, those engaged in the night-time economy, and others with non-traditional working hours, such as college students and members of the "creative class."⁸ Those wanting longer hours argued that by supporting the needs of these groups, late-night venues contribute to the city's social, cultural, and economic vitality, and are an important element in any vibrant, world-class city. Many comments cited the liquor policies of other major cities, particularly in Europe, that allow closing times into the wee hours of the morning, or in some cases, 24 hours a day. Some commenters also argued that licensed restaurants are low-risk establishments relative to other licensed premises such as nightclubs and bars. Specifically, they argued that licensed restaurants attract clientele from all age groups, produce lower levels of intoxication due to food consumption, and have less of a "party" atmosphere. They further claimed that early closing times in restaurants encourage patrons to move on to higher-risk establishments to continue the evening's entertainment, whereas later restaurant hours allow patrons to linger over drinks during and/or after a late meal. Many respondents felt that earlier closing times were patronizing and high-handed, arguing that most adults, particularly restaurant patrons, can be trusted to drink responsibly.

Proponents of earlier closing times also presented compelling arguments. All of them expressed concern that extended hours of liquor service would exacerbate noise and other disturbance problems in their neighbourhoods. Some cited a positive correlation, supported by research, between extended hours and social ills, such as increased alcohol abuse and

⁸ The "creative class," is a term developed by urban studies theorist Richard Florida, to describe those involved in the arts, design, media, and knowledge fields.

associated health issues, and more alcohol-related crime. These social problems, they argued, would have financial impacts, borne by taxpayers, due to increased policing and prosecution of alcohol-related crimes, as well as increased social and health care costs related to alcohol abuse. Many opposed to extended hours rejected the argument that licensed restaurants have fewer impacts than Liquor Primary establishments, arguing that many restaurants operate like bars late at night, serving mainly alcohol with little food consumption.

The majority of respondents were sceptical of the sub-area system. Members of the Liquor Primary and Food Primary industries complained that the boundaries of the sub-areas were arbitrary and unfair, particularly to establishments located adjacent to sub-areas with later hours. Industry representatives and members of the public stated that the sub-area system was confusing and too complicated. Many public respondents, as well as owners of restaurants located outside of downtown, maintained that the sub-area system creates an unruly “party zone” downtown, while drawing patrons away from neighbourhood businesses. Some respondents argued that centralizing late-night entertainment downtown runs contrary to other City initiatives, such as the EcoDensity Initiative, that supports neighbourhood vitality, and contributes to drunk driving and higher transportation demand. Some advocates of earlier closing times also argued that the sub-area system concentrates drinking-related disturbances to negative effect.

November 2008 Public Consultation: Revised Proposal

In response to comments received on the Initial Draft Policy, staff presented a revised proposal that eliminated the sub-area system, and recommended a closing time of 1:00 am seven days a week, throughout the City. A half hour tolerance period, at the end of which drinks must be removed from tables, was also recommended. It was recommended that restaurants that were currently licensed to serve liquor past 1:00 am would be able to maintain their existing hours of service, or could apply to change their hours of liquor service to 1:00 am, seven days a week. Restaurants that maintained their existing hours of liquor service could not extend hours past the existing closing time, or midnight, whichever is later, on any day of the week. This proposal also recommended that business license categories be consolidated, and that a \$1.00 increase in fees per seat be imposed. As discussed below, this recommendation found greater approval among the majority of stakeholders, and was presented to Council on February 19, 2009.

Approximately 40 members of the Food Primary and Liquor Primary industries attended the November 18, 2008 stakeholders meeting. Most Food Primary operators in attendance responded positively to the revised proposal, and encouraged swift adoption of the new policy. Members of the Liquor Primary industry who attended the meeting also responded favourably, on the condition that the City reserve the right to withdraw extended hours from establishments that violated City bylaws. Issues discussed during the June stakeholders meetings, particularly the operation of licensed restaurants as bars, were also raised.

Sentiments expressed at an Open House on November 25, 2008 were divided between those in support of the proposal, those opposed to extended hours, and those seeking later closing times. The comments made at the meeting reflected those made at the June open houses, which are summarized above.

Table 5 below provides a summary of written comments received in response to the revised proposal.

Table 5. Written Comments Received November 2008 to Present

Comment Source	Total Comments Received	Support the proposal	Support earlier hours	Support later hours	Other
Food Primary Industry	6	4	0	2	0
LP Industry	1	1	0	0	0
General Public	16	4	7	3	2
Totals	23	9	7	5	2

The number of comment forms received was much smaller than in the earlier consultation. In addition, the percentage of commenters supporting earlier hours is significantly higher. Most Food Primary industry commenters supported the proposal, whereas the general public was fairly divided between those supporting a 1:00 am or later closing time, and those calling for no extended hours.

Many of the comments raised during public consultation were heard at the February 19, 2009 Planning and Environment Committee meeting, where the revised proposal was presented for Council consideration. Sixteen speakers addressed the proposal. Eight of the speakers supported the proposal, as well as later closing times. Three speakers argued against any extended hours, and a fourth speaker, Gerald Thomas from the Centre for Addictions Research of British Columbia, urged Council to conduct more research on drinking behaviour in licensed restaurants prior to setting hours of service policy. The remaining four speakers were representatives of the Liquor Primary industry, who provided qualified support for the proposal, while urging enforcement against Food Primary restaurants that serve liquor beyond the terms of their licenses. Council did not act on the staff recommendation at that meeting, and referred the matter to a Council briefing, which was held on June 17, 2009.

Public Opinion Poll

Staff hired Angus Reid Strategies, a leading research firm, to conduct a public opinion poll on hours of service in licensed restaurants. Four hundred Vancouver residents participated in the poll by completing a 10-minute on-line survey, which consisted of 17 questions, including several multi-part questions, and opportunities for respondents to choose their preferred closing times in different areas of the city.

The results of the public opinion poll were more ambiguous than the public comments. Significant differences were found among demographic categories, with the most positive attitudes towards late night liquor service hours found among young adults (18 - 34 year olds) and the lowest found among seniors (55+). In some cases, poll results were also contradictory. For instance, in response to one question, 43% of respondents said that liquor service in restaurants should end at midnight; however, when later asked what closing times they would support for the city as a whole, only 16% and 24% chose a midnight or earlier closing time on weekends and weekdays, respectively. Similarly, when asked if they thought late night hours of service in restaurants would have negative or positive impacts, twice as many (43% vs. 21%) said that the impacts would be negative. However, in the remainder of the questions, the majority of respondents supported hours of service past midnight. Overall, respondents

showed strong support (60% or greater) for no later than a 1:00 am closing time on weekdays and in residential areas, and a 2:00 am closing time on weekends. A summary of poll results is available upon request from staff.

In summary, public consultation revealed a diversity of opinions, many in sharp disagreement with each other. Among those who attended public meetings and/or submitted survey forms and comments, a minority expressed strong opposition to hours of service past midnight, and a majority argued for extending closing times to 2:00 am or beyond. The results of the public opinion poll reflect more moderate opinions supportive of closing times between 1:00 am and 2:00 am, depending on the day of the week and area of the city. The current staff recommendation reflects these results.

Issues

Public Health/Safety

Alcohol use is associated with numerous health and social problems. Intoxication is a factor in many incidences of violence, and a cause of injuries to self or others. In 2006, alcohol accounted for 905 deaths in British Columbia.⁹ Alcohol use also contributes to chronic health problems, including liver disease, cardiovascular disease, and some cancers, as well as mental illness and behavioural problems, including child abuse, lowered workplace productivity, and domestic violence. In addition, alcohol misuse has financial impacts, with direct and indirect costs estimated at \$14.5 billion in Canada (2002 figures).¹⁰ On the other hand, alcohol is a substance enjoyed by many, and a source of both social and economic benefits. Given these two factors, a balanced approach to alcohol, employing management tools to minimize its negative impacts, is recommended in most alcohol policy reviews. A recent report from the Provincial Health Officer identifies ten best management practices for managing the health and social harms of alcohol; restricting the hours and days of sale of alcohol was one of the recommended practices.¹¹

In discussing the restriction of days and hours of sales, the report recommends that the Province "(r)oll-back hours of sale for bars and clubs to match the rest of Canada (2 am recommended as a maximum, but only for premises with a good track record on violence and alcohol-related harm)."¹² However, the report does not provide recommended hours of service for licensed restaurants, or discuss the applicability of the recommended management practices to different types of alcohol outlets. Although research on the subject is scant, comparison of licensed restaurants and other types of licensed premises suggests that licensed restaurants are relatively low-risk establishments. For instance, the Provincial report found much fewer contraventions of laws regarding service to intoxicated patrons, sales to minors, and overcrowding in restaurants compared to bars, clubs, and private liquor stores.¹³ A 2003 report by Australian researchers cited a range of research demonstrating that the

⁹ British Columbia. Office of the Provincial Health Officer. *Public Health Approach to Alcohol Policy: An Updated Report from the Provincial Health Officer, December 2008*, P.R.W. Kendall. (Victoria: British Columbia Ministry of Healthy Living and Sport, 2008) 14.

¹⁰ Rehm, et.al., cited in Office of the Provincial Health Officer, 52.

¹¹ Office of the Provincial Health Officer, 41.

¹² Office of the Provincial Health Officer, 46.

¹³ Office of the Provincial Health Officer, 38.

availability of food in licensed premises reduces aggression.¹⁴ In addition, the physical design and atmosphere of most licensed restaurants contain fewer elements which have been found to contribute to alcohol-related violence and disturbances (e.g., high level of comfort, less overcrowding, no bouncers, adequate lighting and ventilation, less permissive atmosphere).¹⁵ Also, licensed restaurants make up a small percentage of alcohol sales (7% in BC in 2007); therefore, their contribution to alcohol-related harms, particularly given the lower risk environment, is comparatively small.¹⁶

The most fundamental argument for the lower risk posed by licensed restaurants is that their purpose is the service of alcohol with meals, thus resulting in less alcohol consumption and lower intoxication levels due to food consumption. This purpose is codified in the License By-law. However, police and by-law enforcement staff have observed that in many licensed restaurants, drinking eclipses food consumption late at night. Reinforcing the importance of food service in licensed restaurants with a limited closing time, stronger regulations mandating food service at all times, and increased enforcement of the License By-law would help reduce the social and health consequences of alcohol consumption in restaurants.

The recommended closing time would moderately extend hours of liquor service: approximately 40% of licensed restaurants have a midnight closing time, and would be eligible for an additional hour of service on weekdays, and two additional hours on weekends; an additional 40% close at 1:00 am six days a week, and would be eligible for one additional hour of liquor service on Friday, Saturday, and Sunday; and the remaining 20% that have a 1:30 am or 2:00 am closing time at least one day a week would experience slight losses and gains of hours depending on the day of the week and their current operating schedule. In addition, the recommended by-law changes would strengthen standards for service of food with liquor in restaurants, and increase the City's ability to enforce those standards, both of which will serve to reduce alcohol-related harms.

Liveability

Regulations governing liquor service, and in particular, hours of service, raise issues of liveability from a variety of perspectives. Those opposed to post-midnight closing times cite noise and disturbance problems as an unwanted consequence of late night liquor service hours. Others contend that a strong night-time economy, with later closing times, increases liveability, particularly for those with non-traditional work schedules. The recommended policy responds to these conflicting viewpoints by finding a middle ground.

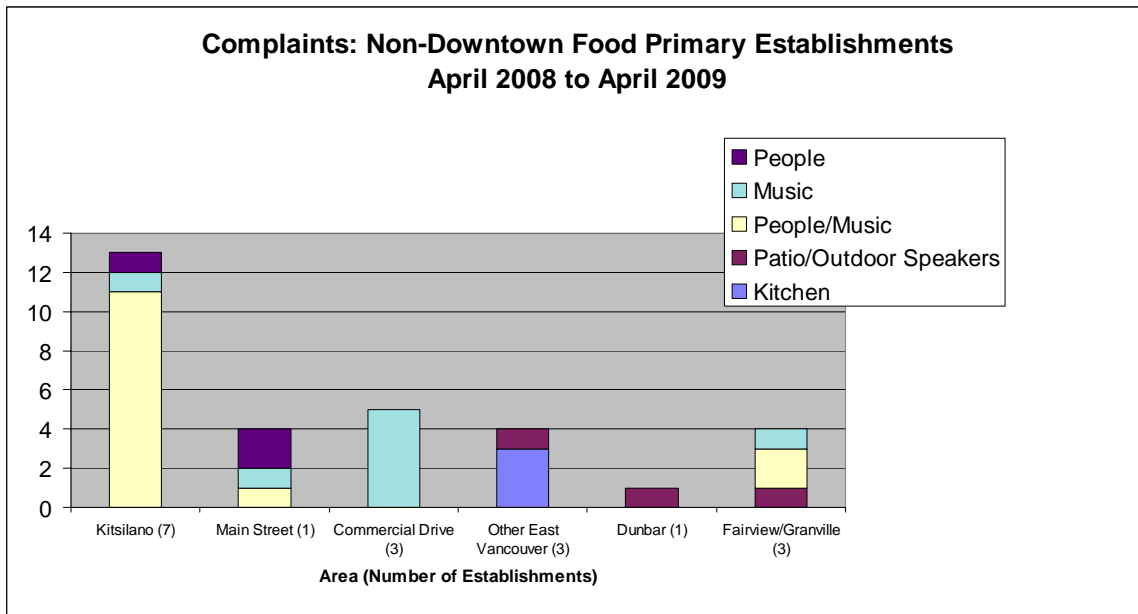
Entertainment venues, including licensed restaurants, are sources of noise in the city. Patio service and live music are subjects of noise complaints; however, since patio service must end at 11:00 pm, and live entertainment must stop at midnight, complaints in the early morning hours generally concern noise generated by patrons and/or by recorded music. An analysis of noise complaints received from April 2008 to April 2009, during the City's first year of noise by-law enforcement, shows that most complaints concern people and/or music. Table 6 shows the results of that analysis for areas outside of downtown.

¹⁴ Doherty, S., and Roche, A. (2003) *Alcohol and Licensed Premises: Best Practice in Policing*. Adelaide, Australasian Centre for Policing Research.

¹⁵ Nicholas, R. (2004) *The Antecedents of Alcohol Related Violence In and Around Licensed Premises*. Adelaide, Australasian Centre for Policing Research, 8 - 10.

¹⁶ Office of the Provincial Health Officer, 11.

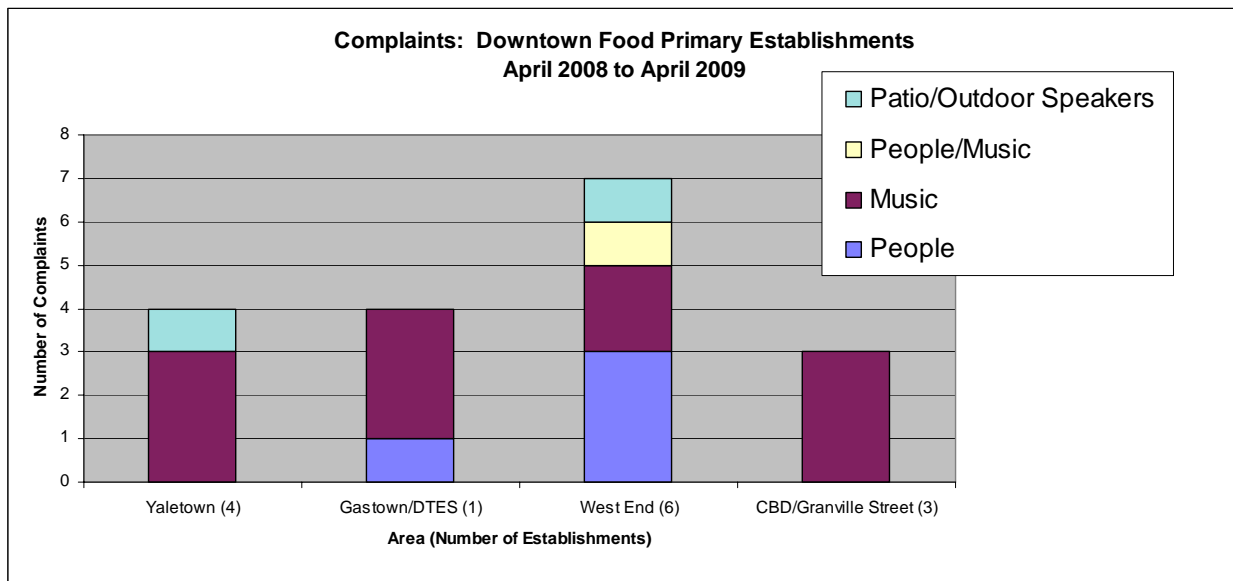
Table 6. Noise Complaints (Non-Downtown) April 2008 - April 2009



Thirty-one complaints were received regarding 18 Food Primary establishments outside of the downtown peninsula. Of those, 25 concerned noisy patrons and/or music. The remaining six complaints were equally divided between concern over patio noise, and kitchen noise. The majority of complaints were received from Kitsilano neighbourhood.

Table 7 shows complaints received from Downtown neighbourhoods.

Table 7. Noise Complaints (Non-Downtown) April 2008 - April 2009



Eighteen complaints were received regarding 14 Food Primary establishments on the downtown peninsula. Of those, all but two concerned noisy patrons and/or music. The remaining two complaints concerned patio noise. The majority of complaints were received from the West End neighbourhood.

In total, 49 complaints, regarding 32 Food Primary establishments, were received during that time period. Thus only 0.03% of the existing 1100 licensed restaurants were the subject of complaint. Moreover, three of those complaints concerned kitchen noise, a source of noise that is unrelated to liquor service closing times. While these totals do not include calls made to police, they do suggest that few citizens felt compelled to pursue all official avenues of redress for noise complaints.

One option to reduce noise in neighbourhoods, which has been adopted for regulation of Liquor Primary establishments, is use of the sub-area system, where closing times are earlier in more residential neighbourhoods. However, given the increasingly mixed use character of many areas of the City, in many places it is difficult to separate residential areas from commercial areas. Many argue, too, that the ability to walk home after a late meal and drinks at a local restaurant both improves the quality of their lives, and reduces social ills such as drunk driving. Moreover, the effect of the proposed hours of service on most commercial centres near residential areas would be incremental.

For instance, on Yew Street near Kitsilano Beach, eight of the eleven licensed restaurants already have a 1:00 am or 2:00 am closing time, except for on Sunday nights. The result of the proposed policy on this neighbourhood would thus be mixed: three restaurants would gain an hour of service each night, and two hours on weekend nights; four other restaurants would gain an hour of service on Friday, Saturday, and Sunday nights. Three restaurants, however, would lose an hour of service on one or more weekday nights, and the remaining restaurant would lose a half hour of service on weeknights and gain a half hour of service on weekends. Moreover, local residents would have an opportunity to comment on each application for hours of service past midnight.

The recommended provisions for increased enforcement may improve noise problems more than a ban on hours of service past midnight. This is especially true given that most restaurants are not the subject of complaints, and the majority of contraventions are attributable to a small percentage of licensed premises. At the same time, the recommended closing times will accommodate those who want to enjoy a reasonably late night at a licensed restaurant, in their neighbourhood or elsewhere.

Maintaining the Distinction between Food Primary and Liquor Primary Establishments

City by-laws define licensed restaurants as establishments whose primary purpose is the service of food, and that serve "alcoholic drinks to customers...as part of a meal." In contrast, the primary purpose of Liquor Primary establishments is the "sale and service of alcoholic drinks." Alcohol sales are more profitable than food sales, thus there is incentive for restaurants to increase service of alcohol, and to increase sales late at night, when alcohol sales begin to eclipse sales of food. However, allowing licensed restaurants to operate as bars would in effect quintuple the number of Liquor Primary establishments in the City, while removing nearly all regulatory controls, including density restrictions, operating regulations, acoustic standards, and stricter public consultation requirements.

The revised Provincial regulations allow drinking without food consumption, as long as food sales are greater than alcohol sales over a 24-hour period. The revised regulations also allow Food Primary licenses to include limited-seating lounge areas, with no food sales required. These areas are essentially bars within licensed restaurants, and allow patrons to walk around with drinks as is typical in bars or clubs.

Investigation has shown that many licensed restaurants operate as bars contrary to the License By-law. A police undercover operation conducted in late 2008 found many Food Primary establishments operating in violation of their business license. In one instance, a police officer was served six drinks and no food at a licensed restaurant. Reports have been made of licensed restaurants requiring I.D. before entry, and refusing admittance to minors. Police and property use inspectors report that alcohol consumption tends to increase late at night and in the early morning hours.

These reports, as well as common knowledge, indicate that more people consume alcohol than full meals in the early hours of the morning. On the other hand, proponents of later restaurant hours counter that midnight is too early to remove drinks from the tables of diners who may be having a late meal after a concert, the theatre, or a sports event.

To address these twin concerns, staff recommends a moderate extension of closing time to 1:00 am weekdays and 2:00 am weekends, combined with provisions to ensure that licensed restaurants are primarily engaged in food service. These provisions require licensed restaurants to offer a full menu of food items throughout all operating hours, and to generate a minimum of 50% of sales from food, not liquor, during any eight-hour period, to be verified by receipts upon request.¹⁷ Staff also recommends that Council increase license fees by \$3.00 per seat to provide increased funds for by-law enforcement, to ensure that these stronger by-law provisions will be enforced.

ALTERNATIVES/OPTIONS

Alternative A - Two am Closing Time, Seven Days a Week

Council could enact a by-law provision to allow licensed restaurants to serve liquor until 2:00 am, seven days a week. This option would reflect the maximum closing time set by the Province prior to its December 2002 update of liquor licensing regulations.

One advantage of this alternative is that it would allow hours consistent with most neighbouring municipalities, including Richmond and Burnaby. In addition, it could incrementally provide a greater variety of late-night venues, and a more vibrant street life, during the week. In addition, licensed restaurants that currently serve liquor until 2:00 am on weeknights would be able to maintain their existing hours of service. This alternative would be welcomed by many commenters from the restaurant industry, as well as many members of the public who attended public meetings. A 2:00 am closing time would allow slightly later

¹⁷ Reducing the time period from 24 hours (as required by the Province) to eight hours increases the effectiveness of the 50% sales rule. Under the 24-hour system, late-night liquor receipts may be "diluted" by breakfast and/or lunch receipts, which typically include fewer liquor sales. Under the eight-hour system, liquor sales from dinner to closing time must be no higher than 50%.

hours than approved by the majority of those responding to the Angus Reid public opinion poll, but would not be entirely inconsistent with those results.

The disadvantages of this alternative are several. First, the potential for noise and disturbances in the early morning hours of the traditional work week would increase. Secondly, the distinction between Food Primary and Liquor Primary establishments would be lessened; with a 2:00 am closing time, the Food Primary hours of service would exceed even the extended hours of service for Liquor Primary establishments in residential and non-downtown mixed use sub-areas. Thirdly, while this alternative is consistent with the former maximum closing time allowed by the Province, it is inconsistent with the actual closing times of existing establishments, only 13% of which extend to 2:00 am any day of the week. This alternative would represent a more significant increase in hours of service than the staff recommendation, and if adopted, may require increased provisions for enforcement, including increased license fees.

COMMENTS

The Police Department position is that the status quo of a midnight closing for all new restaurants has worked well and gives the public ample opportunities to enjoy their favourite restaurant and have a few drinks with their dinner. We must remember the focus of a Food Primary Liquor License is for people to enjoy a drink with their meal. It has always been understood under the Liquor Control and Licensing Act that the food component of the business must be greater than the liquor sales. Over the years there have been a number of published studies that show the negative aspects of alcohol abuse. Governments have responded by controlling the legal drinking age, increasing taxes to control the price, controls on blood-alcohol limits when driving, "Serving it Right Programs" for employees and making a distinction between a Food Primary and Liquor Primary Licensed premise. Having food while drinking liquor helps to mitigate some of the negative aspects. The Police support these and other initiatives that have been shown to prevent alcohol abuse and save lives.

Increasing the hours liquor is served will not increase the sales of food at these restaurants but will increase the sale of liquor. It is through experience we have seen the later liquor hours of service mean patrons stay in the restaurant longer to drink not to eat more or eat later at night. We have a number of restaurants under investigation by both City Licensing and the Liquor Control and Licensing Branch for operating more as a Liquor Primary (bar). Officers have completed projects on a number of restaurants that clearly were selling liquor only with no intention of having the patrons order food. People that go into restaurants later at night are not there to eat in most cases but to drink. The restaurants that disobey the rules look more like bars than restaurants this is why people go to them because they want the atmosphere of a smaller intimate lounge. The Police have no problems with smaller intimate lounges that just serve liquor, but the owners should obtain the appropriate Liquor Primary License.

Not all restaurants that presently have later liquor service hours than midnight cause problems, but a significant number do. In most cases, but not all, these premises are concentrated in entertainment areas such as Granville, Yaletown, Gastown, and the Yew Street area. This causes an increase in disturbance calls as more restaurants locate to these areas stay open later and operate as bars which increases the number of intoxicated patrons. Patrons in this type of establishment tend to stay longer, drink more and all leave together at

closing time. This leads to more calls to the police for people driving intoxicated and nuisance calls such as noise, fighting, urinating in public etc...

The Police support the smaller lounge type establishments with or without some sort of entertainment for people who live in the area because they can walk to them enjoy a meal or just drinks and have a good time. This will not be achieved just by increasing liquor service hours. Controls must be brought into place to determine how many such establishments should be allowed into a residential area. Impact reduction measures not as stringent but similar to what is presently required for Liquor Primary's should be enacted. Business License Inspectors should be hired first and work at night and be proactive and inspect all liquor licensed premises regularly plus respond immediately to any complaints from citizens. The information they gather will determine what areas are best suited for this type of establishment. The Business License fee should be higher than a regular restaurant to pay for the increased cost of enforcement.

FINANCIAL IMPLICATIONS

Recommendations A and B, which include the proposed hours of liquor service by-law amendment and additional regulations for licensed restaurants, as well as authorization of the Chief License Inspector to comment on Food Primary liquor license applications, have no direct financial implications. It is anticipated that current staff could process the expected volume of license amendment applications, should Council allow extended hours of service.

Recommendation C does have financial implications. Staff estimate that the proposed business license fee increase will generate approximately \$450,000 in business license revenue for 2010, although actual revenue may vary according to the number of business licenses and renewals issued.

Recommendation C is independent of the other recommendations, in that Council could approve Recommendations A and B without raising license fees.

ENVIRONMENTAL IMPLICATIONS

Uniform closing times throughout the city will encourage residents to frequent neighbourhood establishments and thus reduce car travel. Energy use (for lighting, temperature control, kitchen equipment, etc.) increases with later hours of liquor service (which generally corresponds to hours of operation in licensed restaurants). Limiting hours of liquor service will result in a decrease in energy use.

IMPLEMENTATION PLAN

Should Council approve the staff recommendation, staff would immediately notify all Food Primary establishments of the approved changes, the timeline for implementation, and the Provincial requirements for obtaining the later closing times. Notification would be by mail.

Food Primary establishments wanting to extend their hours of service would apply to the LCLB for an amendment to their license. The LCLB would then notify the Chief License Inspector of the amendment application. The Chief License Inspector would coordinate a public consultation process, which would include posting of a notice at the establishment, and mailing of notices to owners and occupants of nearby buildings. Following the public

consultation process, the Chief License Inspector would send the LCLB a comment letter summarizing public comments and offering findings either supporting or opposing the application. The LCLB would then either approve or deny the application, although they could not approve an application that the City opposes without undertaking additional public consultation. Upon approval, the LCLB would then issue the amended license, which would take effect immediately. The same process would apply to applications for new Food Primary establishments with closing times later than midnight.

The new business license categories and fees would first appear on the 2010 Business License renewal forms.

COMMUNICATIONS PLAN

In addition to notifying all Food Primary establishments, as discussed above, staff will issue a press release on Council's decision. Staff will also update the Liquor Review website, which has spotlighted the hours of service review, and send an e-mail to a list of approximately 100 individuals who have shown interest in the review.

CONCLUSION

Staff recommends that Council approve an hours of liquor service by-law amendment that allows liquor sales in restaurants until 1:00 am on weekends, and 2:00 am on weeknights, throughout the City. Staff also recommends that Council approve new by-law regulations requiring sufficient sales of food in licensed restaurants. These provisions would limit liquor sales to 50% of a restaurant's sales during any eight-hour period, to be verified by receipts, and require a full menu to be offered at all times. Staff further recommends that business license categories be consolidated so that licensed restaurants would require only one business license, and that business license fees be increased by \$3.00 to provide for additional by-law enforcement. The intent of these recommendations is to allow a moderate increase in hours of liquor service, consistent with existing closing times and public sentiment, while reinforcing the distinction between Food Primary establishments and other liquor establishments. Lastly, staff recommends that Council delegate the authority to comment on Food Primary license applications to the Chief License Inspector, with the provision that she may still refer a particular amendment to Council. The intent of this recommendation is to streamline the approval process under the guidance provided by the new hours of service by-law provision.

* * * * *

BY-LAW NO. _____

**A By-law to amend License By-law No. 4450
regarding restaurant liquor service**

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

1. This By-law amends the indicated provisions and schedules of the License By-law.
2. In section 2, Council strikes out the definitions of "Restaurant", "Restaurant - Class 1", "Restaurant - Class 1 with Lounge", and "Restaurant - Class 2", and substitutes:

"Restaurant Use" means the use of premises for the primary purpose of selling and serving prepared food to the public during all hours of operation, where the premises include at least 17 indoor or outdoor seats for customers consuming food purchased on the premises, and where live entertainment, including the use of non-amplified or amplified musical instruments and disc jockey mixing turntables may be available.

"Restaurant" means, collectively, Restaurant - Class 1, Restaurant - Class 1 with Liquor Service, Restaurant - Class 2, and Restaurant - Class 2 with Liquor Service.

"Restaurant - Class 1" means Restaurant Use that does not include customer participation such as karaoke, dancing, or open microphone performing, or the sale, or offering for sale, of liquor.

"Restaurant - Class 1 with Liquor Service" means Restaurant Use that includes the sale, or offering for sale, of liquor to customers for consumption on the premises, as part of a meal, or in a lounge approved, by way of endorsement, under Liquor Control and Licensing BC Regulation No. 244/2002.

"Restaurant - Class 2" means Restaurant Use that does not include the sale, or offering for sale, of liquor.

"Restaurant - Class 2 with Liquor Service" means Restaurant Use that includes the sale, or offering for sale, of liquor to customers for consumption on the premises, as part of a meal, or in a lounge approved, by way of endorsement, under Liquor Control and Licensing BC Regulation No. 244/2002.

3. Council repeals section 9A.1(1), and substitutes:

"(1) Council assigns to the Inspector the executive or administrative power of Council, under the *Liquor Control and Licensing Act*, to provide to the general manager under that Act comments, or views of residents, on any proposed:

- (a) amendment to a liquor license issued under that Act so long as the proposed amendment does not have force or effect for more than one year from the date of its issuance;
- (b) issuance of a food primary license referred to in Liquor Control and Licensing BC Regulation No. 244/2002; or
- (c) amendment to a food primary license;

and so long as the Inspector may choose to refer any particular amendment or issuance to Council for comments.”

4. Council strikes out “24.3” as it appears before subsection (2) of section 24.3.

5. After section 24.3(2), Council adds:

- “(3) The owner or operator of a restaurant - class 1 with liquor service or restaurant - class 2 with liquor service must:
 - (a) not serve, or allow the serving of, liquor to any customer between:
 - (i) 1 am and 9 am on Monday to Friday, and
 - (ii) 2 am and 9 am on Saturday or Sunday;
 - (b) not allow liquor on tables between:
 - (i) 1:30 am and 9 am on Monday to Friday, and
 - (ii) 2:30 am and 9 am on Saturday or Sunday;
 - (c) during all hours of allowable liquor service, offer the full restaurant menu to customers;
 - (d) during all hours of allowable liquor service, ensure that at least 50% of sales at the restaurant in any eight hour period are for food; and
 - (e) keep sales receipts for all sales of food and liquor for at least one year, and show them to the Inspector upon request.”

6. From Schedule A, Council repeals:

"DINING LOUNGE	4.80 per seat + \$50.00	4.80	per annum per seat except that, despite the number of seats, the minimum fee will be \$109.00 and the maximum fee will be \$2,285.00"
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7. From Schedule A, Council repeals:

"RESTAURANT	662.00	612.00	per annum
RESTAURANT - CLASS 1 with lounge	662.00	612.00	per annum
RESTAURANT - CLASS 2	662.00	612.00	per annum"

and substitutes:

"RESTAURANT - CLASS 1	686.00	636.00	per annum
RESTAURANT - CLASS 1 with Liquor Service	686.00 +8.00 per seat	636.00 +8.00 per seat	per annum
RESTAURANT - CLASS 2	686.00	636.00	per annum
RESTAURANT - CLASS 2 with Liquor Service	686.00 +8.00 per seat	636.00 +8.00 per seat	per annum"

8. A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.

9. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this _____ day of _____, 2009

Mayor

City Clerk

Food Primary Liquor Establishments Closing Time Policies in Other Cities

	Maximum closing time allowed without comment	Maximum closing time permitted	Notes
Burnaby	2:00 am 7 days a week	no policy	Extended hours (past midnight) for establishments with outdoor patios require comment
Richmond	2:00 am 7 days a week	2:00 am 7 days a week	
North Vancouver	Midnight 7 days a week	no policy	
Surrey	Midnight 7 days a week	2:00 am Fri - Sat 1:00 am weekdays	
New Westminster	Midnight 7 days a week	2:00 am 7 days a week	No extended hours in lounge areas
Calgary	N/A	2:00 am 7 days a week (per Provincial regulations)	
Toronto Ottawa	N/A	2:00 am 7 days a week (per Provincial regulations)	Can condition shorter hours where problems exist
Montreal	N/A	3:00 am 7 days a week (per Provincial regulations)	Can restrict hours on individual basis if violations occur Pubs and taverns have earlier closing times (1:00 am and midnight respectively)
Halifax	N/A	2:00 am 7 days a week (per Provincial regulations)	Cabarets have later closing times (3:30 am); "beverage rooms" (pubs) and clubs have earlier closing times (1:00 am)
Seattle	N/A	2:00 am 7 days a week (per State regulations; no	Local governments can establish earlier closing times, but few if any have.

		local regulations re: closing time)	Approvals can be vetoed by public schools within 500 feet Restricted hours of sale in "alcohol impact areas"
Portland	N/A	2:30 am 7 days a week (per State regulations)	Can restrict hours on individual basis if violations occur; Outdoor patios in residential areas: recommend 10:00 pm closing time; Alcohol Impact Areas: recommend 8:00pm to 9:00 pm closing time.
San Francisco		2:00 am 7 days a week (per State regulations)	Alcoholic Beverage Special Use Subdistricts do not apply to "bonafide restaurants"
Chicago		2:00 am 6 days a week, 3:00 am Saturday 4:00 am 6 days a week, 5:00 am Saturday with Late Hour License	For Late Hour License applications in residential areas, the applicant must include a petition, signed by the majority of the registered voters in the affected area, giving permission for the application to be submitted
New Orleans		24 hours 7 days a week	
New York City		4:00 am 7 days a week	
London		24 hours 7 days a week	
Edinburgh		3:00 am 7 days a week	Pubs and hotels have 1:00 am closing time; casinos have 6:00 am closing time 6 days a week, 4:00 am closing time Sunday
Oslo		Midnight weekdays; 3:00 am weekends	

Paris		24 hours 7 days a week	
Sydney		Midnight 6 days a week, 10:00 pm Sunday Extended hours to 5:00 am 7 days a week	Former policy allowing 24 hour trading rolled back in July 2008 in effort to reduce violence
Auckland		24 hours 7 days a week	Efforts underway to reduce closing time to 3:00 am

