



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

A G E N D A

REGULAR COMMITTEE OF THE WHOLE

Monday, July 13, 2009

5:45 p.m.

Esquimalt Council Chambers

1. CALL TO ORDER

2. LATE ITEMS

3. APPROVAL OF THE AGENDA

4. PRESENTATION

- (1) Paul Brookes, Victoria Police, Youth Combating Intolerance

5. MINUTES

- (1) Minutes of the Regular Committee of the Whole, May 11, 2009 Pg. 1 – 4
(2) Minutes of the Special Committee of the Whole, May 25, 2009 Pg. 5 – 7
(3) Minutes of the Special Committee of the Whole, June 15, 2009 Pg. 8 – 9

6. STAFF REPORTS

Parks and Recreation

- (1) Review of Revenue and Cost Allocations at the Archie Browning Sports Centre, Staff Report No. P&R-09-026 Pg. 10 – 11

Administration

- (2) Policy No. 53 Amendment to Existing Liquor Licence, Staff Report No. ADM-09-034 Pg. 12 – 52

Fire Services

- (3) Emergency Social Services (ESS), Staff Report No. FIRE-09-005 Pg. 53 – 54

Development Services

- (4) Secondary Suites, Staff Report No. DEV-09-045 Pg. 55 – 73
(5) Temporary Accessory Buildings, Staff Report No. DEV-09-046 Pg. 74 – 76

7. ADJOURNMENT



Corporation of the Township of Esquimalt

REGULAR COMMITTEE OF THE WHOLE

Monday, May 11, 2009

Esquimalt Municipal Hall – Council Chambers

7:00 p.m.

MINUTES

PRESENT: Mayor Barbara Desjardins (Chair), Councillor Meagan Brame, Councillor Randall Garrison, Councillor Lynda Hundleby, Councillor Don Linge, Councillor Bruce McIldoon, Councillor Alison Gaul

STAFF: Laurie Hurst, Acting Chief Administrative Officer, Trevor Parkes, Senior Planner, Pat Mulcahy, Human Resources Manager, Diane Knight, Executive Assistant (recorder)

1. CALL TO ORDER

Mayor Desjardins called the meeting to order at 7:00 p.m.

2. APPROVAL OF THE AGENDA

Moved by Councillor Hundleby, seconded by Councillor Brame that the agenda be approved.

The motion **CARRIED**.

3. MINUTES

- (1) Minutes of the Regular Committee of the Whole, April 14, 2009
- (2) Minutes of the Special Committee of the Whole, April 16, 2009
- (3) Minutes of the Special Committee of the Whole, April 20, 2009
- (4) Minutes of the Special Committee of the Whole, May 4, 2009

Moved by Councillor Brame, seconded by Councillor Hundleby that the Minutes of the Regular Committee of the Whole, April 14, Minutes of the Special Committee of the Whole, April 16, April 20 and May 4, 2009 be approved.

The motion **CARRIED**.

4. STAFF REPORTS

Development Services

- (1) Secondary Suites, Staff Report No. DEV-09-025

The Senior Planner brought forward the recommendation. The rationale for having a business license is to have a record of who operates secondary suites, and to ensure enforcement of health and safety regulations.

Moved by Councillor Brame, seconded by Councillor Garrison to permit members of the public to speak.

The motion **CARRIED**.

Terry Prentice – Mr. Prentice thanked staff and Council for having this issue move ahead so quickly. He feels all the background work has been done so that it is time to move the bylaw forward.

Rod Lavergne – Mr. Lavergne commented that this issue has to be presented to the Advisory Planning Committee. He questioned the reference to a business license and stated that there is no tax grab for this bylaw. There is far too much information to review tonight and the definitions need work.

Comments from Council include:

- Pleased to see this bylaw move forward;
- Concerns were expressed with having a public meeting in July;
- Concerns were raised with not having enough public input; some suggestions include having an input opportunity at Buccaneer Days, on the website and at municipal buildings;
- Ensure that bylaw is developed where issues have been raised before they become a problem;
- Concerns were raised with the current illegal suites;
- Staff were requested to provide copies of bylaws from View Royal, Victoria and Langford to Council;
- Concerns with bylaw enforcement;
- Would like to see statistics about the impact of secondary suites on parking;
- Concerns that waiting to move ahead with bylaw will impact the shortage of summer housing.

Moved by Councillor Hundleby, seconded by Councillor McIldoon to split the recommendation into two points.

The motion **DEFEATED**.

Moved by Councillor Linge, seconded by Councillor Garrison that:

1. This Report and the attached amending bylaws, which would authorize Secondary Suites in certain zones and regulate their use, be received for information and comment; and
2. The Timeline set out on Page 4 of this Report be approved.

The motion **CARRIED**.

- (2) Development Permit, 860 Admirals Road, [Lot 11, Block 7, Section 10, Esquimalt District, Plan 2546], Staff Report No. DEV-09-026

The Senior Planner noted that the Development Permit is for a side by side duplex on Admirals Road. The lot is currently vacant, meets all guidelines and staff recommend approval.

Moved by Councillor Linge, seconded by Councillor Garrison that the application for a Development Permit, limiting the form and character of development to that shown on architectural plans prepared by Java Designs, stamped "Received April 2, 2009" and on the landscape plan prepared by

Exterus Landscape Design Group stamped "Received April 30, 2009", for the proposed development located at Lot 11, Block 7, Section 10, Esquimalt District, Plan 2546 [860 Admirals Road], be forwarded to Council with a **recommendation of approval**.

The motion **CARRIED**.

- (3) Development Variance Permit, 1206 Wychbury Avenue, [Lot 7, Section 11, Esquimalt District, Plan 21838], Staff Report No. DEV-09-027

The Senior Planner reported that the Permit is to replace a sunroom. He noted that there will be variance hearing notices and the public will still have an opportunity for input.

Moved by Councillor Hundleby, seconded by Councillor Gail that the application for a Development Variance Permit authorizing construction as shown on the site plan and construction drawings stamped "Received March 25, 2009", and including the variance noted above, for the proposed sunroom replacement located at Lot 7, Section 11, Esquimalt District, Plan 21838 [1206 Wychbury Avenue] be forwarded to Council with a **recommendation of approval**.

Zoning Bylaw No. 2050, Section 40(9)(iii) – Rear Setback - a 0.65 metre decrease in the required setback from the rear lot line for the principal building, i.e. from 7.5 metres to 6.85 metres.

The motion **CARRIED**.

- (4) Development Variance Permit, 677 Admirals Road, [Strata Lot 1, Suburban Lot 50, Section 11, Esquimalt District, Plan VIS3131], Staff Report No. DEV-09-028

The Senior Planner reported that the variance permit is to construct a fence in front of the residence at 677 Admirals Road to gain privacy and reduce noise. The current zoning restricts the fence height.

Comments from Council include:

- Concerns with the fence height;
- Concerns with potential for graffiti;
- The fence is a vast improvement for the property.

Moved by Councillor Brame, seconded by Councillor Garrison that the application for a Development Variance Permit authorizing the installation of a 1.83 metre wooden fence in front of the front face of the principal building, to be constructed as shown on photographic examples submitted with the application stamped "Received April 9, 2009", and including the following relaxation to Zoning Bylaw No. 2050, be forwarded to Council with a **recommendation of approval**.

Zoning Bylaw No. 2050, Section 38(11) – Fencing - a 0.63 metre increase to the permitted fence height in front of the front face of the Principal Building from 1.2 metres to 1.83 metres.

The motion **CARRIED**.

5. ADJOURNMENT

Moved by Councillor Brame, seconded by Councillor Hundleby to adjourn the Regular Committee of the Whole meeting at 8:00 p.m.
The motion **CARRIED**.

MAYOR OF THE CORPORATION
OF THE TOWNSHIP OF ESQUIMALT
THIS DAY OF , 2009

CERTIFIED CORRECT:

CAROLLYNE EVANS
CORPORATE ADMINISTRATOR



Corporation of the Township of Esquimalt

SPECIAL COMMITTEE OF THE WHOLE

Monday, May 25, 2009

Esquimalt Municipal Hall – Council Chambers

5:45 p.m.

MINUTES

PRESENT: Mayor Barbara Desjardins, Councillor Meagan Brame, Councillor Randall Garrison, Councillor Don Linge, Councillor Bruce McIldoon, Councillor Alison Gaul

REGRETS: Councillor Lynda Hundleby

STAFF: Laurie Hurst, Acting Chief Administrative Officer; Barbara Snyder, Director of Development Services; Gilbert Coté, Director of Engineering and Public Works; Andy Katschor, Acting Director of Parks and Recreation; Jeff Byron, Recreation Manager; Paul Nelson, Fire Chief; Gord Anderson, Deputy Fire Chief; Inspector Darrell McLean, West Division, Victoria Police Department; Marlene Lagoa, Manager of Communications and Sustainability; Pat Mulcahy, Human Resources Manager; Diane Knight, Executive Assistant

1. CALL TO ORDER

The meeting was called to order at 5:45 p.m.

2. LATE ITEMS

There were no late items.

3. APPROVAL OF AGENDA

(1) Move agenda item 4(8) West Division First Period Report to Item 4(1).

(2) Move agenda Item 4(1) Financial Services First Period Report to Item 4(2).

Moved by Councillor Garrison, seconded by Councillor Brame that the agenda be approved as amended.

The motion **CARRIED**.

4. DEPARTMENTAL REPORTS 2009 -1ST PERIOD (January – April)

The following first period reports for January 1, 2009 through April 30, 2009, were presented by department representatives. Highlights of the reports were verbally reviewed and questions from Council were addressed.

- 1) Victoria Police Department, West Division First Period Report

Mayor Desjardins welcomed Inspector Darrell McLean to Esquimalt.

Inspector McLean presented West Division statistics using a bar graph and noted that there will be a summer action plan in place again this summer. Council requested that Inspector McLean make available statistics for the municipality of Esquimalt only.
- 2) Financial Services First Period Report, Staff Report No. FIN-09-015

The Director of Financial Services provided brief highlights and responded to questions from Council.
- 3) Corporate Services First Period Report, Staff Report No. ADM-09-024

The Manager of Communications and Sustainability provided brief highlights and responded to questions from Council.
- 4) Development Services First Period Report, Staff Report No. DEV-09-029

The Director of Development Services provided brief highlights and responded to questions from Council. Council requested that the new Tourism Officer be introduced at a future Council meeting. Mayor Desjardins congratulated Trevor Parkes, Senior Planner, on completion of the Justice Institute Emergency Planning.
- 5) Engineering and Public Works First Period Report, Staff Report No. EPW-09-018

The Director of Engineering and Public Works provided brief highlights and responded to questions from Council. He noted that Trevor Kushner has been hired as the new Public Works Manager.
- 6) Parks Services First Period Report, Staff Report No. P&R-09-020
- 7) Recreation Services First Period Report, Staff Report No. P&R-09-022

Mayor Desjardins congratulated Brett Harper, Aquatic Programmer, for his leadership in the National Lifeguard Service program last year. Council requested a quarterly report on food services, rentals, staffing and uses in the next reporting period.
- 8) Esquimalt Fire Rescue First Period Report, Staff Report No. FIRE 09-004

Moved by Councillor Brame, seconded by Councillor Linge that Staff Reports No. FIN-09-015, No. ADM-09-024, No. DEV-09-029, No. EPW-09-018, No. P&R-09-020, No. P&R-09-022, No. FIRE-09-004, and the report from the Victoria Police Department for the 2009 First Period be received.
The motion **CARRIED**.

5. **ADJOURNMENT**

Moved by Councillor Brame, seconded by Councillor Linge that the meeting adjourn at 6:11 p.m.
The motion **CARRIED**.

MAYOR OF THE CORPORATION
OF THE TOWNSHIP OF ESQUIMALT
THIS DAY OF , 2009

CERTIFIED CORRECT:

CAROLLYNE EVANS
CORPORATE ADMINISTRATOR



Corporation of the Township of Esquimalt

SPECIAL COMMITTEE OF THE WHOLE

Tuesday, June 15, 2009

Esquimalt Municipal Hall – Council Chambers

5:45 p.m.

MINUTES

PRESENT: Mayor Barbara Desjardins (Chair), Councillor Meagan Brame, Councillor Randall Garrison, Councillor Don Linge, Councillor Bruce McIldoon, Councillor Alison Gaul, Councillor Lynda Hundleby

STAFF: Laurie Hurst, I/Chief Administrative Officer
Barbara Snyder, Director of Development Services
Scott Hartman, Director of Parks and Recreation
Pat Mulcahy, Manager of Human Resources
Carolynne Evans, Manager of Corporate Services

1. CALL TO ORDER

Mayor Desjardins called the meeting to order at 5:45 p.m.

2. LATE ITEMS

There were no late items.

3. APPROVAL OF THE AGENDA

Moved by Councillor Brame, seconded by Councillor Linge that the agenda be approved.

The motion **CARRIED**.

4. Staff Reports

(1) Esquimalt Village Plan, Staff Report No. DEV-09-038

Barbara Snyder referred to the slide on the screen which visually illustrated the scattering and clustering of commercial activity and evident gaps. She stated the development of Phase 1 will help to fill in those gaps by providing continuity in the business core.

Discussion:

Ms. Snyder clarified how the phases were linked to create a cohesive project and unite the downtown. Ms. Snyder advised although more emphasis will be placed on Phase 1, the phases would not be developed in isolation of each other and would still adhere to a comprehensive plan. Completing Phase 1 will allow the redevelopment of Site 1 housing the old Municipal Hall, old Public Works Yard, Town Square and Public Safety Building; it will up to Council to decide the

mechanism for disposition of the property.

Councillor McIldoon stated it is important to refer the sensitive matter of relocation of Esquimalt Memorial and Sailors Walk to the Heritage Advisory Committee.

Mayor Desjardins reported on her ride around the business core with Ms. Snyder and commercial realtors. Continuity of the retail community and upgraded façades will draw more business to the community. Council agreed with the Mayor on emphasizing the importance of being very clear at the outset in setting absolutely clear and high development standards, including such principles as alternate system of waste heating, exclusive LEED certification and development cost charges and amenities.

Moved by Councillor Linge, seconded by Councillor Brame that the Committee of the Whole recommends

1. That Council consider dealing with the Esquimalt Village Plan in 2 phases:
 - Phase 1) the area containing the old Municipal Hall, Town Square, old Public Works Yard, and Public Safety Building [Site 1];
 - Phase 2) the remainder of the plan area [Sites 2 and 3].
2. That the development of a comprehensive plan for the Esquimalt Village continue but that detailed planning for the redevelopment of Site 1 [described in Staff Report DEV-09-038] begin immediately to enable this site to be tendered to potential developers.

The motion **CARRIED UNANIMOUSLY.**

Ms. Snyder commented that as considerable time has lapsed, the consulting team will be brought back and more public information sessions will be scheduled focusing more specifically on Site 1.

5. ADJOURNMENT

Moved by Councillor Brame, seconded by Councillor Garrison to adjourn the Special Committee of the Whole meeting at 6:12 p.m.
The motion **CARRIED.**

MAYOR OF THE CORPORATION
OF THE TOWNSHIP OF ESQUIMALT
THIS DAY OF , 2009

CERTIFIED CORRECT:

CAROLLYNE EVANS
CORPORATE ADMINISTRATOR



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

Municipal Hall, 1229 Esquimalt Road, Esquimalt, B.C. V9A 3P1
Telephone (250) 414-7100 Fax (250) 414-7111

STAFF REPORT

DATE: July 9, 2009 **REPORT NO. P&R-09-026**
TO: Laurie Hurst, Acting Chief Administrative Officer
FROM: Scott Hartman, Director of Parks and Recreation Services
SUBJECT: Review of Revenue and Cost Allocations
At the Archie Browning Sports Centre

The Advisory Team from KPMG LLP will formally present the report to Council. A copy of the report will be distributed to Council during the meeting.

RECOMMENDATION:

1. That Council receive the report as information.
2. That staff prepare an operational report for presentation to Council in the Fall 2009 to discuss the future planning opportunities and strategies available to the Parks and Recreation Department.

BACKGROUND:

The Township retained the services of KPMG LLP to undertake a financial review of revenues and expenditures at the Sports Centre. The review was conducted to provide the Parks and Recreation Department with information on the financial performance of facilities and activities within the Sports Centre to support future operational planning.

DISCUSSION:

This financial review focused on the allocation of revenues and expenses to the profit centres within the Sports Centre. In addition, the report sought opportunities to enhance the ongoing management of costs. The scope of the review included, but was not limited to, expenditures associated with: maintenance; administrative support; advertising; utilities; food services; reception; and contractor support.

The financial review included:

- (1) An assessment of all labour, material and service costs by program and service areas, along with any recommendations related to the management of these costs;
- (2) Preparing a schedule of direct and indirect revenues with a percentage breakdown of where each should be allocated in the Sports Centre budget;
- (3) Preparing a schedule of direct and indirect expenditures with a percentage breakdown of where each should be allocated in the Sports Centre budget; and
- (4) A determination of the annual cost of providing programs and services that will assist in preparing the annual Fees and Charges Schedule.

July 9, 2009

Report to Laurie Hurst, Acting Chief Administrative Officer

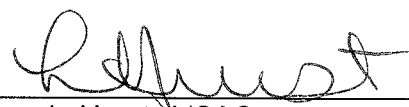
Subject: Review of Revenue and Cost Allocations at the Archie Browning Sports Centre

Page 2

Staff will utilize the information contained within the report to assist in the creation operating plans for future discussion with Council in the Fall 2009.



Scott Hartman
Director of Parks and Recreation Services

Approved for Council's consideration:


Laurie Hurst, A/CAO
Dated: July 9/09



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

Municipal Hall, 1229 Esquimalt Road, Esquimalt, B.C. V9A 3P1
Telephone (250) 414-7100 Fax (250) 414-7111

STAFF REPORT

DATE: July 9, 2009 Report No. ADM-09-034
TO: Laurie Hurst, I/Chief Administrative Officer
FROM: Carollyne Evans, Manager of Corporate Services
SUBJECT: Policy No. 53: Amendment to Existing Liquor Licence

RECOMMENDATION:

That Policy No. 53 *Amendment to Existing Liquor Licence* be approved.

BACKGROUND:

The Township has been using Policy No. PLAN – 33 *Rezoning Policy and Guidelines for Liquor Licensed Establishments and Licensee Retail Stores* for processing applications for amendments to existing liquor licences. This policy was adopted by Council November 17, 2003.

ISSUES:

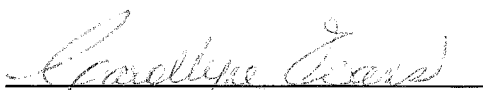
The 2003 policy preamble addresses “the establishment of new Liquor Licensed Establishments or Licensee Retail Stores in the Township of Esquimalt”. The guidelines in this policy have been used in processing applications for amendments to existing establishments, and these guidelines do not adequately apply.

DISCUSSION:

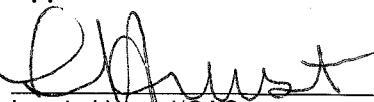
New Policy No. ADMIN – 53 *Amendment to Existing Liquor Licence* is consistent with the process outlined by the Liquor Control and Licensing Branch (LCLB) of the Ministry of Public Safety and Solicitor General. Copy of the manual entitled “Role of Local Government and First Nations in the Provincial Liquor Licensing Process” is attached for your information.

The significant change in this new policy is the responsibility on Local Government [rather than the applicant] to gather the views of residents and spearhead the consultation process. The aim of the Policy Process Guidelines is to provide clear understanding to the applicant and staff.

A Policy to address new applications for Liquor License Establishments and Licensee Retail Stores that is consistent with the provincial liquor licensing process is also being developed.


Carollyne Evans
Manager of Corporate Services

Approved for Council's consideration:


Laurie Hurst, I/CAO

Dated: July 9/09



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

COUNCIL POLICY

TITLE: Amendment to Existing Liquor Licence	NO. ADMIN – 53
--	-----------------------

POLICY:

The process will be consistent with the process outlined by the Liquor Control and Licensing Branch (LCLB) of the Ministry of Public Safety and Solicitor General in the *“Role of Local Government and First Nations in the Provincial Liquor Licensing Process”*.

Local Government must consider the following applications for both permanent and temporary licence amendments:

- An extension of hours of liquor service (either earlier or later) of a liquor-primary licence or winery licence endorsement;
- An increase in the person capacity of a liquor-primary licence or winery licence endorsement (except where an applicant held, or had preliminary site and applicant approval for, a licence on December 2, 2002 and the size of the establishment is not being increased);
- The addition of a patio to a liquor-primary licence or winery lounge endorsement; an extension of hours of liquor service past 12:00 a.m. of a food primary licence; and
- The addition of patron participation entertainment to a food-primary licence.

PROCESS GUIDELINES:

1. Application for a Licence Amendment

- The applicant submits to Corporate Services a completed “Application for Permanent Change to a Liquor Licence” obtained from the Liquor Control and Licensing Branch.
- Corporate Services date stamps the application form.
- The application fee is paid per the current *Administration Fees and Charges Bylaw*.
- A copy of the application is retained by Corporate Services which serves as notice from the LCLB of an amendment to a licence within the Township.
- The applicant submits the original application to the LCLB.

2. Processing of Application

- Corporate Services refers the application for comments to
 - ✓ Development Services (parking, zoning, business licence, bylaw enforcement)
 - ✓ Fire Department

EFFECTIVE DATE:	APPROVED BY:	REFERENCE	AMENDS NO.	PAGE 1 OF 4
------------------------	---------------------	------------------	-------------------	--------------------

- A staff report to Council is prepared outlining Council’s options, with recommendation:
 - ✓ Council passes a “no comment” resolution to LCLB; or
 - ✓ Council directs staff to collect the views of residents and consider regulatory criteria.

3. Site and Community Assessment

- Corporate Services gathers the views of the residents if the amendment will affect them by:
 - giving notice of a public hearing in the newspaper per section 892 of the *Local Government Act*; and/or
 - receiving written comments in response to a public notice posted at the site and in local newspapers;
 - If the applicant is required to post a sign on the property, it shall be 6 ft high x 3 ft wide and state that an application for an amendment to a liquor licence has been made, and anyone with an interest in the matter may forward their comments to the Township within 30 days; and/or
 - delivering notices to owners and occupiers of property located within a 45 metre radius of the applicant’s property; and/or
 - any other method that is fair to residents and applicant, provides a reasonable notice, avoids a perception of bias and is appropriate to local circumstances.
- Corporate Services refers the application to School District No. 61 and Police Department for comments.
- Esquimalt Council considers the regulatory criteria
 - The potential for noise; and
 - The impact on the community; and
 - Whether the amendment may result in the establishment being operated in a manner that is contrary to its primary purpose

4. Recommendation to LCLB

- Council must provide either
 - ✓ a “no comment” resolution to LCLB, or
 - ✓ a resolution, with reasons, recommending / not recommending the amendment to the licence within 90 days of receipt of application.
 - ✓ The Township may request an extension from LCLB.

Attachment: Sample Council Resolution

EFFECTIVE DATE:	APPROVED BY:	REFERENCE	AMENDS NO.	PAGE 2 OF 4

TITLE: Amendment to Existing Liquor Licence

NO. ADMIN – 53

SAMPLE RESOLUTION

General Manager,
Liquor Control and Licensing Branch

Re: Application for *(addition of a patio / increase in person capacity / extension of hours of liquor service / patron participation entertainment)* as an amendment to *(liquor-primary / liquor primary club / winery / food-primary)* licence number: *(licence number)*.

At the Council meeting held on *(date)*, the Council of the Township of Esquimalt passed the following resolution with respect to the application for the above named amendment:

BE IT RESOLVED THAT:

1. The Council of the Township of Esquimalt *(recommends / does not recommend)* the issuance of the licence for the following reasons: *(detail and explain reasons for recommendation)*.
2. Council's comments on the prescribed considerations are as follows: *(the Council may refer to the contents of any report attached to the resolution for further information with respect to any of the considerations)*.
 - (a) The potential for noise if the application is approved *(provide comments)*
 - (b) The impact on the community if the application is approved *(provide comments)*
 - (c) Whether the amendment may result in the establishment being operated in a manner that is contrary to its primary purpose *(provide comments only if the application is from a food-primary licence for an extension of hours of service past midnight or the addition of patron participation entertainment)*
 - (d) The views of residents *(describe the views of residents, the method used to gather the views and provide comments and recommendations with respect to the views. If the views of residents were not gathered, provide reasons)*.
3. Council *recommends / does not recommend* the amendment of the licence for the following reasons: *(detail and explain reasons for recommendation)*.

The undersigned hereby certifies the above resolution to be a true copy of the resolution passed by the Council of the Township of Esquimalt on *(date)*.

Sincerely,

Corporate Administrator

EFFECTIVE DATE:

APPROVED BY:

REFERENCE

AMENDS NO.

PAGE 3 OF 4

TITLE: Amendment to Existing Liquor Licence	NO. ADMIN – 53
--	-----------------------

Note:

- All of the items outlined above in points 1 and 2 (a) through (d) must be addressed in the resolution in order for the resolution to comply with section 53 of the Liquor Control and Licensing Regulation.
- A separate resolution must be provided for each type of amendment if the applicant is applying for more than one of the prescribed types of amendments.
- Any report presented by an advisory body or sub-committee to the Council may be attached to the resolution.

EFFECTIVE DATE:	APPROVED BY:	REFERENCE	AMENDS NO.	PAGE 4 OF 4
------------------------	---------------------	------------------	-------------------	--------------------



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

COUNCIL POLICY

TITLE: Rezoning Policy and Guidelines for Liquor Licensed Establishments and Licensee Retail Stores

NO. PLAN - 33

POLICY:

Given the general concern over the establishment of new Liquor Licensed Establishments or Licensee Retail Stores in the Township of Esquimalt, it is the policy of Council that all new proposals for these uses require a zoning amendment.

In consideration of a proposal for a Liquor Licensed Establishment or Licensee Retail Store, Council has established the following criteria:

General Characteristics for proposed Liquor Licensed Establishments or Licensee Retail Stores

- The Liquor Licensed Establishment or Licensee Retail store should be in an established or planned commercial area to minimize nuisance to nearby neighbours. These areas are designated as Commercial in the Official Community Plan and are defined by the areas that are typically zoned Core Commercial (C-3) and Neighbourhood Commercial (C-2).
- Entrance to any Liquor Licensed Establishment or Licensee Retail Store should be from an existing street frontage or from within a shopping plaza.
- The Liquor Licensed Establishment or Licensee Retail Store should be at least 200 metres from an elementary or secondary school.
- The Township wishes to avoid concentrations of this use in the municipality. Generally, the proposed Liquor Licensed Establishment or Licensee Retail Store should be at least 200 metres from an existing Liquor Licensed Establishment, Licensee Retail Store, BC Liquor store or wine and beer store.
- For applications with street frontage, the applicant should provide an analysis of the proposed location, use and design, based on Crime Prevention Through Environmental Design (CPTED) principles.
- Where existing buildings are to be converted for either use, applicants shall provide Building Code analysis for the proposed change of occupancy as part of their application.
- Required parking is noted in the Parking Bylaw, 1992, No. 2011.

EFFECTIVE DATE: November 17, 2003	APPROVED BY: Council	REFERENCE	AMENDS NO. Original	PAGE 1 OF 3
---	--------------------------------	------------------	-------------------------------	--------------------

**TITLE: Rezoning Policy and Guidelines for
Liquor Licensed Establishments and
Licensee Retail Stores**

NO. PLAN - 33

Community Consultation

- Given the potential concern over this type of application, all residents and owners of neighbouring lots must be polled, by the applicant, as to the acceptability of the application. (The polling procedure and reporting are detailed in the following section).
- The applicant must also discuss the proposal with local residents associations where applicable.
- The application will be referred to School District #61 and to the Police Department for up to 30 days to ensure that their comments are considered in Council's decision.

Neighbourhood Poll

In accordance with the Liquor Licensed Establishments and Licensee Retail Stores Rezoning Policy, an applicant is required to poll all the residents and owners of neighbouring lots. An example of neighbouring lots is shown below:

To complete the petition requirement of the Rezoning process, the following must be submitted with any application:

- A map showing the location of the subject property and the neighbouring lots polled highlighted or noted on the map; and
- A completed petition, with the format shown on the following page.

Note that both the owners and occupiers must be polled. In the case of rental properties this includes both the residents (renters) and the owners. If the owner cannot be located through the tenant, then this information can be obtained through the Land Title Office, 850 Burdett Avenue, Victoria, phone 387-6331.

EFFECTIVE DATE:
November 17, 2003

APPROVED BY:
Council

REFERENCE

AMENDS NO.
Original

PAGE 2 OF 3

Liquor Licensed Establishment or Licensee Retail Store Rezoning Petition

I, _____, have applied to the Township of Esquimalt for rezoning of the property at _____ to permit a Liquor Licensed Establishment or Licensee Retail Store.

The Township of Esquimalt requires that all the residents and owners of neighbouring properties be polled to determine the acceptability of the proposal.

Please review the proposal and information and indicate the following:

Name: (please print) _____

Address: _____

Are you the registered owner? Yes No

I have reviewed the applicant's plans and have the following comments:

 I support the application

 I am opposed to the application

Comments:

Date

Signature

EFFECTIVE DATE: November 17, 2003	APPROVED BY: Council	REFERENCE	AMENDS NO. Original	PAGE 3 OF 3
---	--------------------------------	------------------	-------------------------------	--------------------



Ministry of Public Safety and Solicitor General
Liquor Control and Licensing Branch

Role of Local Government and First Nations in the Provincial Liquor Licensing Process

updated March 2003

UPDATED MARCH 2003

**Role of Local Government and First Nations
in the Provincial Liquor Licensing Process**

Table of Contents

Introduction.....	2
Liquor-primary licence applications.....	4
Food-primary licence applications	14
Winery licence endorsement applications	15
Applications to amend a licence	17
Special occasion licence applications.....	22
Other topics of interest.....	23
Sample resolution template for a liquor-primary or liquor-primary club licence application	25
Sample resolution comments for a liquor-primary licence application	26
Sample resolution template for a winery licence endorsement application .	28
Sample resolution template for a licence amendment application	29
Sample resolution template for opting out of comment in advance of applications	30
Sample resolution template for opting out of comment on an individual application.....	31

Introduction

Why a guide?

The general manager of the provincial Liquor Control and Licensing Branch (LCLB) issues liquor licences under the authority of the *Liquor Control and Licensing Act* and Regulation. Local government and First Nations play an important role that is essential to the liquor licensing process.

The goal of this guide is to provide a better understanding of the liquor licensing process, as it involves local government and First Nations. This guide describes the most common types of licence applications (both new applications and applications for changes to licences) and the role of the local government or First Nation that has jurisdiction over the proposed site for each type of application.

The role of local government and First Nations changed substantially as a result of the revised Liquor Control and Licensing Regulation that came into effect on December 2, 2002. The LCLB, rather than the applicant, now notifies local government and First Nations of new licence applications. Local government and First Nations have the opportunity to provide comments and recommendations to the LCLB on all liquor-primary licence applications.

What are local government and First Nations?

The *Liquor Control and Licensing Act* defines local government as any of the following:

- the board of a regional district;
- the council of a municipality; or,
- the local trust committee or executive committee acting as local trust committee for a local trust area under the Islands Trust Act.

First Nation means either of the following:

- the band council of a reserve; or,
- any prescribed aboriginal governing body.

Why is more than one level of government involved?

Local and provincial governments share an interest in ensuring that liquor regulations are followed and that every liquor licensee enjoys the support of its community. Local government and First Nations are responsible for protecting the peace and good order of their communities and are often the first to receive complaints about a licensed establishment. The provincial government is responsible for establishing and maintaining a province wide liquor control policy that addresses issues from a provincial perspective.

Many liquor licence applicants have trouble distinguishing between approvals they must get from local government and First Nations and the input that the provincial liquor licensing process requires from local government and First Nations.

This guide focuses on the input the LCLB requires from local government and First Nations. However, applicants must realize that LCLB approval of a liquor licence is just one part of what they need to do business in their community. Applicants should contact their local government or First Nation early in the liquor licence application process to determine:

- what other approvals they need to construct and open their establishment for business; and,
- what information is needed to get those approvals.

What approvals might local government and First Nations require?

An individual who wishes to operate a business in a community will have to satisfy local government or First Nation requirements in areas such as:

- zoning;
- parking;
- noise bylaws;
- building permits and bylaws;
- business licensing;
- health and food safety; and,
- fire safety.

Liquor-primary licence applications

What types of establishments are eligible for a liquor-primary licence?

A liquor-primary licence may be issued to an establishment that is primarily in the hospitality, entertainment, or beverage service business. This may include establishments commonly known as bars, lounges, pubs, and cabarets, as well as convention centres, stadiums, concert halls and recreation centres, airports, trains and motor vessels. Private clubs are a sub-category within the liquor-primary class of licence and follow the same application process as other liquor-primary licences.

The regulation prohibits restaurants, take-away services, and youth-focused businesses, such as video arcades and movie theatres, from holding a liquor-primary licence.

What is the process for issuing a liquor-primary licence?

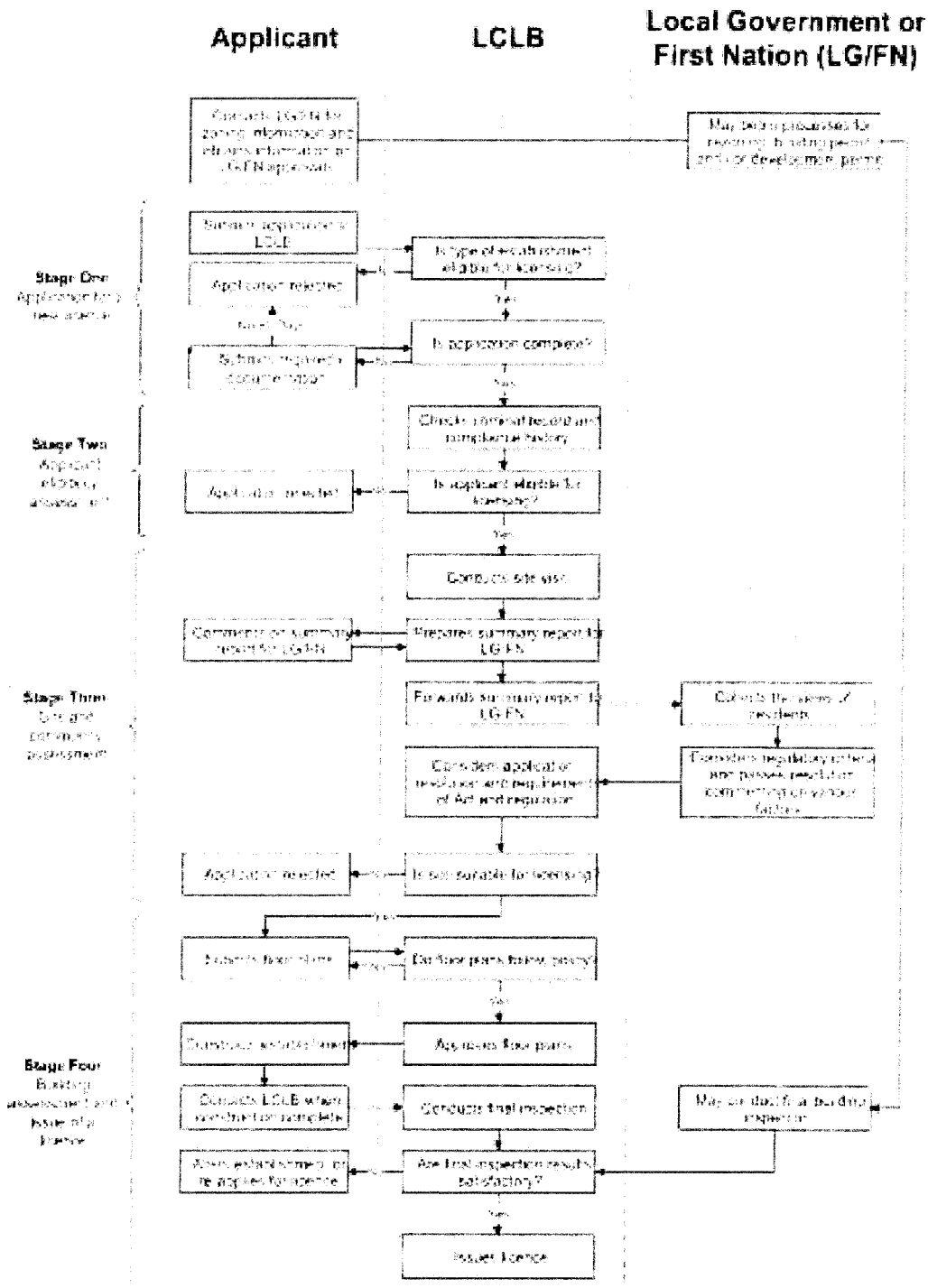
The process for issuing a liquor-primary licence involves four stages. The flowchart on the following page shows a typical application process. Steps may be added or omitted in certain situations, for example, where a local government or First Nation decides to opt out of the process.

Stage One: Application for a new licence

The applicant submits an application to LCLB headquarters in Victoria. The LCLB assess whether the proposed establishment meets the definition of a liquor-primary establishment. The LCLB checks that the application is complete. A complete application must include all of the following:

- completed application form and fee;
- proof of valid interest in the proposed site;
- corporate structure and shareholder documents;
- Personal History and Criminal Record Search consent form;
- letter of intent describing the proposal;
- local government or First Nation documents indicating the zoning classification and permitted uses of the proposed site (such as a copy of the zoning bylaw);
- preliminary concept drawings of the overall establishment; and,
- a large official scaled and dated map of the municipality, regional district or First Nation reserve showing appropriate boundaries.

The LCLB may require additional information, depending on the proposed type of establishment.



Where the local zoning bylaw indicates that the proposed establishment is not a permitted use on the site, the applicant should provide information to the LCLB indicating that they are applying either to rezone the property or for a development permit that would allow the use. The LCLB does not require final confirmation from the local government or First Nation that the establishment is a permitted use until the fourth stage of the process.

At this stage, the applicant should contact their local government or First Nation to determine any local requirements for business licensing or building or development permits. These processes may happen at the same time as the liquor licensing process. Applicants should also confirm local government or First Nation policies and procedures for assessing liquor-primary licence applications. Some local government and First Nations may require detailed floor plans when they assess the community impact of the application.

Stage Two: Applicant eligibility assessment

The LCLB assesses whether the proposed establishment meets the definition of a liquor-primary establishment.

The LCLB assesses whether the applicant is eligible to hold a liquor licence. This includes an assessment of whether the applicant:

- meets age and residency requirements;
- has a valid interest in the proposed site;
- is “fit and proper”; and/or,
- has an association with a liquor manufacturer, agent, UBrew or Uvin that would prevent the LCLB from issuing a licence.

The LCLB also conducts a criminal record check and reviews the applicant’s compliance history if they have held other liquor licences.

Stage Three: Site and community assessment

LCLB headquarters asks the local liquor inspector to verify the information on location and surrounding establishments provided by the applicant. The inspector conducts a site visit and takes photos of the proposed site.

The LCLB prepares a summary report and forwards it to the applicant for comment. The LCLB notes any comments from the applicant and forwards the summary report to the appropriate local government or First Nation.

The applicant pays the local government or First Nation any cost-recovery fees they have set to assess applications. The local government or First Nation may also ask the applicant to provide detailed floor plans in order to assess the community impacts of the application.

The local government or First Nation collects the views of residents. The process for collecting the views of residents is described later in the section “How are the views of residents obtained?”.

The local government or First Nation reviews the regulatory criteria and provides a resolution to the LCLB recommending whether the licence should be issued. A list of the criteria that local government and First Nations must consider and comment on in the resolution is provided later in the section “What criteria must a local government or First Nation consider and comment on in its resolution?”.

The LCLB reviews the resolution to make sure it is consistent with the regulation and is not contrary to the public interest. If the local government or First Nation does not provide a resolution, the LCLB reviews the regulatory criteria and gathers the views of residents.

The LCLB considers the entire application, including any resolution received from the local government or First Nation, and decides whether issuing a licence would be contrary to the public interest.

Stage Four: Building assessment and issue of a licence

The LCLB reviews current floor plans submitted by the applicant and determines whether they follow LCLB policy.

In jurisdictions where the local government or First Nation provides preliminary approvals, the plans must be stamped with fire or building authority approvals and the occupant load indicated on the plans must be equal to, or less than, the requested person capacity of the licence.

Further information on the relationship between person capacity and occupant load can be found in the section entitled “Other topics of interest”. If the occupant load indicated on the plans is greater than the requested person capacity, the applicant must alter the plans or re-submit the application and request a greater person capacity. Once the LCLB approves the floor plans, and the applicant meets all local government or First Nation building permit requirements, the applicant may proceed with construction.

An LCLB inspector conducts a final inspection to ensure that the establishment has been built as shown in the approved floor plans. A local government or First Nation may also conduct a final building inspection at this time. The local building inspector notifies the LCLB if the results of the final building inspection indicate an occupant load different from that stamped on the approved floor plans. If the final occupant load is greater than the person capacity requested in the letter of intent describing the proposal, the applicant must alter the building construction or re-submit the application and request a greater person capacity. A re-submitted application follows the same approval process as a new licence application, including consideration by the local government or First Nation.

If the results of the LCLB final inspection, and any final inspections conducted by the local government or First Nation, are satisfactory, the LCLB grants a liquor-primary licence.

When do local government and First Nations become involved?

Local government and First Nations become involved in the liquor licensing process in stage three. The *Liquor Control and Licensing Act* says that applicants must not try to get the views of their local government or First Nation about their liquor licence application before the LCLB provides the local government or First Nation with notice. This does not prevent applicants from contacting their local government or First Nation in stage one to get information on zoning or to begin the process of obtaining any other local approvals.

What criteria must a local government or First Nation consider and comment on in its resolution?

A local government or First Nation must consider and comment on:

- the location of the establishment;
- the proximity of the establishment to other social or recreational facilities and public buildings;
- the person capacity and hours of liquor service;
- the number and market focus or clientele of liquor-primary licence establishments within a reasonable distance of the proposed location;
- traffic, noise, parking and zoning;
- population, population density and population trends;
- relevant socio-economic information; and,
- the impact on the community.

Sample comments for each of these criteria are provided at the end of this booklet.

What does the LCLB provide to local government and First Nations?

The LCLB provides the local government or First Nation with a summary report on the regulatory criteria outlined above. The LCLB prepares the report based on information provided by the applicant and confirmed by the inspector during the site visit. The LCLB also provides:

- population information based on the most recent census data available through Statistics Canada;
- socio-economic data, where available, that indicates the community's dependency on the social safety net; and,
- information on contraventions of the *Liquor Control and Licensing Act* and Regulation committed by licensed establishments in the area surrounding the proposed establishment.

Local government and First Nations may refer to any other demographic or socio-economic information for their community when commenting on the regulatory criteria.

How are the views of residents obtained?

Local government and First Nations must gather the views of residents whenever issuing a liquor-primary licence may affect them. Residents include businesses. Remote resorts or other licensed establishments in rural areas may be sufficiently removed from residents that it is not necessary to gather their views.

The local government or First Nation determines the appropriate area to be included and the method for gathering those views. A local government or First Nation can recover from applicants the cost of any process used to gather the views of residents.

The local government or First Nation may use one or more of the following methods:

- receiving written comments in response to a public notice posted at the site and in local newspapers;
- conducting a public hearing;
- holding a referendum; or,
- any other similar method.

The more controversial the application, the greater the need for a precise method for gathering views, such as a referendum.

Local government and First Nations should make sure that the method they choose meets the following criteria:

- it is fair and equitable to both the residents and the applicant;
- it provides all nearby residents with reasonable notice and opportunity to comment;
- it avoids any perception of bias; and,
- it is appropriate to local circumstances.

To avoid the perception of bias, it is very important that neither the applicant, nor a group opposed to the application, be involved in the collection of residents' views.

To help residents form their opinion, the local government or First Nation must provide the following information:

- the type of licence application;
- the proposed person capacity; and,
- the proposed hours of liquor service.

A local government or First Nation may gather the views of residents during a public hearing to consider a re-zoning application for the proposed site. This would enable a single process to serve two purposes.

A local government or First Nation may decide whether to gather the views of residents, the area that will be covered and the method of gathering their views. However, the general manager may override any decision that is contrary to the public interest. This includes the decision whether or not to gather the views of residents, as well as decisions regarding the method used and the area canvassed. The general manager must be satisfied that residents have had an opportunity to express their views if they may be affected. The general manager may find that, although the population in the near vicinity is sparse, the nature of the establishment requires gathering the views of residents.

The local government or First Nation decides what weight to give to the views that are obtained. For example, a local government or First Nation may give different weight to the opinions of local businesses than it gives to the views of local residents.

When examining the views of residents, local government and First Nations must be careful not to consider irrelevant factors such as concerns from existing licensees about potential negative impacts on their businesses. The courts have concluded these are not relevant considerations, as neither the Act nor regulation sets out a need to consider the economic impact of an application on existing licensees.

How does a local government or First Nation provide its recommendation to the LCLB?

A local government or First Nation must provide a resolution to the general manager that:

- comments on the regulatory criteria;
- indicates whether or not the views of residents were gathered;
- if the views of residents were gathered, explains:
 - how the views of residents were gathered;
 - the views of residents; and,
 - its comments and recommendations with respect to the views of residents;
- provides its recommendation whether the licence should be issued; and,
- gives the reasons for its recommendation.

A sample resolution template for a liquor-primary licence application is included at the end of this booklet.

What will the LCLB do if a resolution does not meet the requirements of the Act or regulation?

If the resolution fails to address one or more of the regulatory criteria, the general manager may request that the local government or First Nation provide another resolution that addresses the outstanding criteria.

If the local government or First Nation is unable to provide a resolution that addresses all of the criteria, or if the resolution appears to be contrary to the public interest, the general manager must allow residents to comment on the licence application. The general manager will generally collect comments using a referendum.

If comments are collected by referendum, the general manager must refuse to issue the licence if less than 60 per cent of the residents who vote are in favour of issuing the licence. In any other case, the general manager must refuse to issue the licence if a majority of residents do not favour issuing the licence.

If the residents are in favour, the general manager will consider the regulatory criteria before deciding whether to issue the licence.

What is the time frame for providing a resolution?

A local government or First Nation must provide a resolution to the LCLB within 90 days of receiving the summary report. If a local government or First Nation wishes to extend the time for response, it must provide a written request to the general manager, before the end of the 90 days, indicating the extension requested and the reasons for the request. Local government or First Nation staff may prepare the request.

If an extension is granted, the general manager will provide written authorization to the local government or First Nation. If an extension is not granted, or if the local government or First Nation does not request an extension, the general manager will consider the regulatory criteria and determine whether or not to issue the licence, without local government or First Nation comment.

Can a local government or First Nation decide not to comment?

A local government or First Nation may decide not to comment on liquor-primary licence applications. It can inform the LCLB of its decision in the following two ways.

A local government or First Nation may provide a resolution to the LCLB indicating that it does not wish to receive notice of, or provide comment on, *any* liquor-primary licence applications within its jurisdiction or within a specific geographic area. A sample resolution template is included at the end of this booklet.

A local government or First Nation may also opt out of commenting on an individual application. In this case, after receiving the summary report, the local government or First Nation must provide a resolution to the LCLB indicating that it does not wish to provide comment on that particular application. A sample resolution template is included at the end of this booklet. The local government or First Nation will continue to receive notice of other liquor-primary licence applications and may comment, or not, as it chooses.

What will the LCLB do if the local government or First Nation does not provide a resolution?

If the LCLB does not receive a resolution, before deciding whether to issue the licence, the general manager will:

- gather the views of residents if issuing a licence may affect them; and,
- consider the regulatory criteria.

The general manager may gather the views of residents using any of the methods available to local government and First Nations outlined earlier in the section “How are the views of residents obtained?”.

Can a local government or First Nation consider more than one application at a time?

Yes, a local government or First Nation may consider more than one liquor-primary licence application within its jurisdiction at the same time. The LCLB will provide notice of applications to local government and First Nations even if earlier applications are still in progress. Where a local government or First Nation is considering more than one application for an area, it must manage the collection of the views of residents to avoid confusion and allow residents the chance to comment on all applications that may affect them.

Local government and First Nations may decide the order in which they will review applications. They do not have to review applications in date order. However, where a local government or First Nation has provided a resolution to the LCLB in favour of an application, it cannot rescind that resolution in order to support a later application.

Food-primary licence applications

What types of establishments are eligible for a food-primary licence?

A food-primary licence may be issued to a restaurant if the primary purpose of its business is the service of food during all hours of operation.

Food-primary licensees that have a minimum capacity of at least 50 may apply for an endorsement to their licence that allows them to operate a small area of the restaurant as a lounge where liquor may be served without food. Minors are allowed in a restaurant lounge if accompanied by an adult. The maximum size of the lounge is the smaller of 40 persons or 20 per cent of the interior dining area's capacity.

Licensees may apply to have two lounges if:

- one of the lounges is located on an outdoor patio; and,
- each of the lounges has a capacity no greater than the limit for a restaurant lounge (40 persons or 20 per cent).

Both lounges may be in use at the same time as long as the combined total number of persons in both lounges never exceeds the maximum person capacity (i.e., 40 persons or 20 percent). If a restaurant with two lounges exceeds the maximum person capacity, the LCLB will require the restaurant to close one of the lounges.

What is the process for issuing a food-primary licence?

The process for issuing a food-primary licence includes the same steps outlined in the section entitled "Liquor-primary licence applications," with the following differences:

- the LCLB does not conduct a site visit;
- the general manager does not consider a resolution from a local government or First Nation; and,
- the general manager determines whether issuing a licence is contrary to the public interest by considering the primary purpose of the proposed establishment.

When do local government and First Nations become involved?

Local building or fire authorities must review and approve floor plans and determine occupant loads for licensed areas.

The LCLB requests a resolution from a local government or First Nation when a food-primary licensee applies for patron participation entertainment (such as dine and dance or karaoke) or hours of liquor service past midnight. Further information on these circumstances can be found in the section entitled "Applications to amend a licence".

Winery licence endorsement applications

What is a winery liquor licence?	A winery liquor licence allows the licensee to manufacture and store wine and provide samples of products to the public in a designated sampling area at the winery site.
What is the process for issuing a winery licence?	The process for issuing a winery licence is similar to the process for food-primary licences outlined in the section entitled “Food-primary licence applications”. Local government and First Nations do not have an opportunity for comment or recommendations on winery licence applications.
What are winery licence endorsements?	To allow consumption of wine by the bottle or glass at the winery, wineries may apply for two types of endorsements: <ul style="list-style-type: none">• a picnicking endorsement allows the consumption of wine in a designated outdoor area on the winery site; and,• a winery lounge endorsement allows the consumption of wine in an indoor area and/or a patio on the winery site.
What is the process for issuing a winery licence endorsement?	The process for issuing a winery lounge endorsement or picnicking endorsement is the same as the process for issuing a liquor-primary licence, as outlined in the section entitled “Liquor-primary licence applications”. Local government and First Nations become involved in stage three of the process by providing a resolution to the LCLB commenting on the application.
What criteria must a local government or First Nation consider?	A local government or First Nation must consider: <ul style="list-style-type: none">• the location of the winery lounge or picnicking area;• how close the winery lounge or picnicking area is to other social or recreational facilities and public buildings;• the person capacity of the proposed winery lounge;• hours of liquor service;• traffic, noise, parking and zoning; and,• the impact of the winery lounge or picnicking area on the community.

What information does the LCLB provide to local government and First Nations?

The LCLB provides local government and First Nations with a summary report on the endorsement application. The summary report includes information on each of the regulatory criteria outlined in the preceding section “What criteria must a local government or First Nation consider?”.

How are the views of residents obtained?

If a local government or First Nation considers that issuing an endorsement may affect nearby residents, the local government or First Nation must gather the views of residents. Information on the process and requirements for gathering the views of residents is provided in the section entitled “Liquor-primary licence applications”.

How does a local government or First Nation provide its recommendation to the LCLB?

A local government or First Nation must provide a resolution to the general manager that:

- comments on the regulatory criteria;
- indicates whether or not the views of residents were gathered;
- if the views of residents were gathered, explains:
 - how the views of residents were gathered;
 - the views of residents; and,
 - its comments and recommendations with respect to the views of residents;
- provides its recommendation whether the endorsement should be issued; and,
- gives reasons for its recommendation.

A sample resolution template is included at the end of this booklet.

What is the time frame for providing a resolution?

A local government or First Nation must provide a resolution to the LCLB within 90 days after receiving the summary report. Information on requesting an extension to the 90 day response period is provided in the section entitled “Liquor-primary licence applications”.

Can a local government or First Nation decide not to comment?

Yes, local government and First Nations may decide not to comment on winery licence endorsement applications. The section entitled “Liquor-primary licence applications” contains information on how to opt out of comment.

Applications to amend a licence

When will the LCLB provide local government and First Nations with notice of amendment applications?

Licensees may apply for a variety of licence changes. The regulation outlines a number of situations where the LCLB must provide local government and First Nations with notice of an application to amend a licence. These include the following:

Liquor-Primary, Liquor-Primary Club, & Winery Licences

- an extension of hours of liquor service (either earlier or later);
- an increase in the person capacity (except a one-time increase up to the occupant load where an applicant held, or had preliminary site and applicant approval for, a licence on December 2, 2002 and the size of the establishment is not being increased);
- the addition of a patio.

Food-Primary Licences

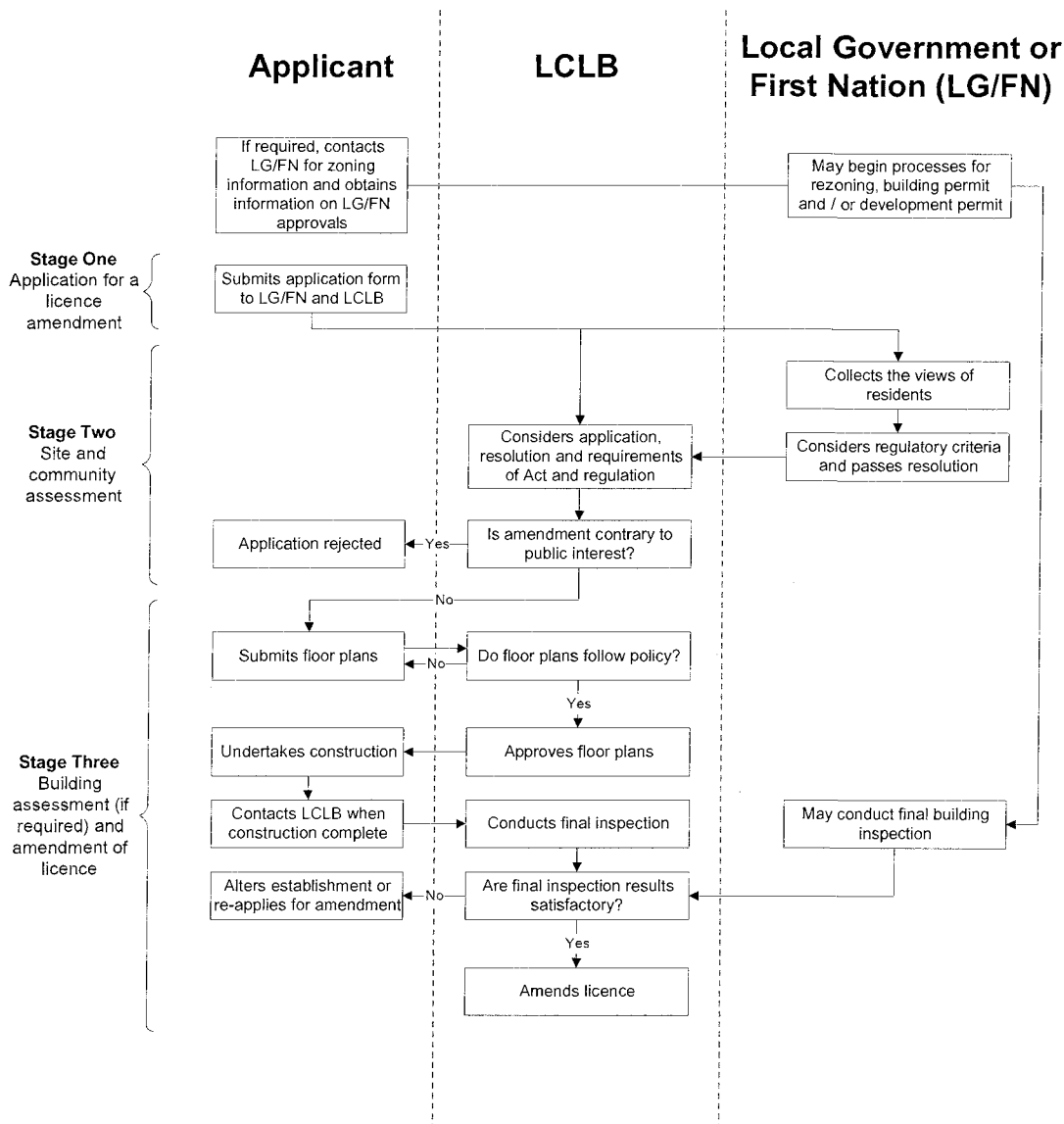
- an extension of hours of liquor service past 12:00 a.m.;
- patron participation entertainment.

In these situations, the LCLB provides notice to local government and First Nations for licence amendment (change) applications.

Other licence changes are processed by the LCLB without an opportunity for local government or First Nation comment, for example, a transfer of shares or a name change.

What is the process for these types of amendments?

Licence amendments follow a process that includes either two or three of the four stages outlined in the section entitled “Liquor-primary licence applications”. The second stage (applicant eligibility assessment) is eliminated, as applicants are already licensees. A process flowchart is included on the next page, followed by a description of the licence amendment process.



Stage One: Application for a licence amendment

The applicant completes an application to change their licence. The appropriate local government or First Nation date stamps the application form to indicate the date it was received. The applicant provides the local government or First Nation with a copy of the application which serves as notice from the LCLB of an amendment to a licence within their community. The applicant submits the original application to the LCLB. The application form indicates what information the applicant needs to provide to address the regulatory criteria.

Stage Two: Site and community assessment

The local government or First Nation:

- gathers the views of residents if the amendment may affect them;
- considers the regulatory criteria; and,
- provides a resolution to the LCLB.

Further information on each of these steps is provided later in this section.

If the local government or First Nation does not provide a resolution, the general manager will consider the regulatory criteria and gather the views of residents if the amendment may affect them.

The LCLB considers the entire application, including any resolution received from the local government or First Nation, and decides whether granting the amendment would be contrary to the public interest.

Stage Three: Building assessment (if required) and amendment of licence

For amendments to hours of liquor service, or to allow patron participation entertainment, the LCLB simply amends and issues the new licence at this stage.

If the application involves the addition of a patio or an increase in person capacity due to a structural alteration, the LCLB conducts a building assessment that is identical to the assessment that occurs with a new licence application.

What criteria must a local government or First Nation consider?

The local government or First Nation must consider:

- the potential for noise; and,
- the impact on the community.

When the application is for liquor service past 12:00 a.m. or for patron participation entertainment in a restaurant, the local government or First Nation must also take into account whether the amendment may result in the restaurant operating improperly as a liquor-primary establishment.

How are the views of residents obtained?

If a local government or First Nation considers that the amendment may affect nearby residents, the local government or First Nation must gather the views of residents. The process and requirements for gathering the views of residents is outlined in the section entitled “Liquor-primary licence applications”.

How does a local government or First Nation provide their recommendation to the LCLB?

A local government or First Nation must provide a resolution to the general manager that:

- comments on the regulatory criteria;
- indicates whether or not the views of residents were gathered;
- if the views of residents were gathered, explains:
 - the views of the residents;
 - the method used to gather the views of the residents; and,
 - its comments and recommendations with respect to the views of residents;
- provides its recommendation as to whether the amendment should be approved; and,
- gives the reasons for its recommendation.

A sample resolution template is included at the end of this booklet.

Where a local government or First Nation wishes to support a licence amendment for a trial period only, such as extended hours of liquor service, it may provide a resolution supporting a temporary change to the licence for a period of up to one year, rather than a permanent change. The general manager will consider the recommendation and may grant the amendment on a temporary basis. If the establishment operates for the designated time period without incident, the general manager will consider an application for a permanent approval of the change.

What is the time frame for providing a resolution?

The local government or First Nation must provide a resolution to the LCLB within 90 days after receiving an application form. Information on requesting an extension to the 90 day response period is provided in the section entitled “Liquor-primary licence applications”.

Can a local government or First Nation decide not to comment?

Local government and First Nations may decide not to provide comments or recommendations on licence amendment applications. To opt out of commenting, a local government or First Nation must pass a resolution indicating that it does not wish to provide comment on the application.

Special occasion licence applications

What is a special occasion licence?

Special occasion licences allow the sale of liquor at special occasions. Regularly scheduled events are not generally eligible for special occasion licences. Special occasion licences are not for the prime purpose of making a profit, unless the purpose of the event is to raise funds for a genuine charitable purpose.

What is the process for issuing special occasion licences?

Application for a special occasion licence can be made at any approved liquor store. The store manager reviews the application and issues the licence if the application follows LCLB policy and the necessary approvals have been obtained. The general manager may approve or reject an application in special circumstances.

When do local government and First Nations become involved?

All public special occasions require the approval of both the responsible local government or First Nation and the local police authority. Public special occasions are:

- community or public celebrations; or,
- tasting events held to acquaint the public with products of a licensed liquor manufacturer.

Some local government have formed a Committee to Approve Public Events (CAPE) that grants approval in principle to public special occasion licences within its jurisdiction and includes representatives from local government and local police.

Other topics of interest

Person capacity and occupant load

The person capacity of all new licensed establishments must be equal to the occupant load of the establishment. Occupant load is defined in the regulation as the least number of persons allowed in an establishment under:

- the Provincial building regulations;
- the *Fire Services Act* and British Columbia Fire Code Regulation; and,
- any other safety requirements of the local government or First Nation for the area in which the establishment is located.

Local government and First Nations must determine which of their requirements are “safety” related, for example, parking bylaws.

Local building or fire officials determine the occupant load for each licensed establishment. To assist with this determination, local officials may refer to the document entitled “Occupant Loads in Licensed Beverage Establishments” prepared by the Office of the Fire Commissioner and the Building Policy Branch. In areas where there is no representative of the Office of the Fire Commissioner, the applicant must obtain the services of a designated professional to determine the occupant load.

Conditional approval or support

In some circumstances, a local government or First Nation may wish to have certain terms and conditions placed on a liquor licence in exchange for its approval and support.

Although the applicant may agree with the terms and conditions, the LCLB may not have jurisdiction to impose them. For example, the general manager may consider conditions with respect to hours of liquor service or types of entertainment, but has no jurisdiction to impose terms and conditions relating to issues such as preserving heritage buildings or landscaping.

To make sure that the general manager can consider conditions, local government and First Nations should consult with the LCLB before making a resolution that is conditional.

Restrictions on entertainment

Under section 50 of the *Liquor Control and Licensing Act*, a municipality or regional district may, by bylaw, restrict or prohibit any or all of the types of entertainment that would otherwise be permitted under the regulation or the terms and conditions of a licence.

Imposition of cost-recovery fees

Local government and First Nations may use a bylaw or any other authorized method to impose fees on applicants in order to recover the costs of assessing applications for licences or licence amendments. This includes the cost of gathering the views of residents. These fees may be different for different classes or categories of licence applications and amendments and for the different methods used to assess applications.

Rural agency stores

The provincial Liquor Distribution Branch administers the rural agency store program. Information on the program, including criteria for community eligibility and support, can be obtained by contacting the Liquor Distribution Branch at 1-866-888-3324.

Sample resolution template for a liquor-primary or liquor-primary club licence application

General Manager,
Liquor Control and Licensing Branch

RE: Application for a liquor-primary licence at: (address of proposed establishment)

At the (council/board) meeting held on (date), the (council/board) passed the following resolution with respect to the application for the above named liquor licence:

“Be it resolved that:

1. The (council/board) (recommends/does not recommend) the issuance of the licence for the following reasons: (detail and explain reasons for recommendation)
2. The (council’s/board’s) comments on the prescribed considerations are as follows: (see the following page for sample comments for each criterion – a comment on each must be included in the resolution. It is not sufficient to reference a staff report.)
 - (a) The location of the establishment (provide comments)
 - (b) The proximity of the establishment to other social or recreational facilities and public buildings (provide comments)
 - (c) The person capacity and hours of liquor service of the establishment (provide comments)
 - (d) The number and market focus or clientele of liquor-primary licence establishments within a reasonable distance of the proposed location (provide comments)
 - (e) Traffic, noise, parking and zoning (provide comments)
 - (f) Population, population density and population trends (provide comments)
 - (g) Relevant socio-economic information (provide comments)
 - (h) The impact on the community if the application is approved (provide comments)
3. The (council’s/board’s) comments on the views of residents are as follows: (describe the views of residents, the method used to gather the views and provide comments and recommendations with respect to the views. If the views of residents were not gathered, provide reasons).

The undersigned hereby certifies the above resolution to be a true copy of the resolution passed by the (council/board) of (local government/First Nation) on (date).

Sincerely,

(signature)
(name and title of official)
(local government/First Nation)

Note:

- All of the items outlined above in points 1, 2(a) through (h) and 3 must be addressed in the resolution in order for the resolution to comply with section 10 of the Liquor Control and Licensing Regulation.
- Any report presented by an advisory body or sub-committee to the council or board may be attached to the resolution.

Sample resolution comments for a liquor-primary licence application

The following are examples that illustrate the type of comments that local government and First Nations might provide to demonstrate they have taken into consideration each of the criterion in reaching their final recommendation. Comments may be a mix of positive, negative and neutral observations relevant to each criterion. The final recommendation is the result of balancing these 'pros and cons'.

The list is not intended to illustrate every possible comment as the variations are endless, given the wide range of applications and local circumstances.

It is important that the resolution include the comment and not refer to a staff report, as the general manager cannot suppose that the local government considered all the criteria unless comment on each criterion is specifically addressed in the resolution itself.

Local government or First Nation staff may wish to contact the Liquor Control and Licensing Branch for assistance on drafting the content of a resolution before it is presented to local government or First Nation to avoid resolutions that do not comply with the regulations.

(a) The location of the establishment:

The location is in a commercial area that is removed from nearby residences and is suitable for a late night entertainment venue where some street noise at closing time can be anticipated.

(b) The proximity of the establishment to other social or recreational facilities and public buildings:

The only nearby social, recreational and public buildings do not conflict with the operation of a late night entertainment venue.

– or –

The proposed location is across a lane from a church with an attached retirement facility and church hall routinely used for youth group gatherings. The proximity of the proposed establishment is not considered compatible with the existing facilities.

(c) The person capacity and hours of liquor service of the establishment

The maximum person capacity of 250 with closing hours of 2:00 a.m. Tuesday through Saturday and midnight on Sunday is acceptable. A larger capacity or later hours is not supported given the few number of police on duty at that time.

- (d) The number and market focus or clientele of liquor-primary licence establishments within a reasonable distance of the proposed location:

The existing establishments are large public house establishments that focus on exotic entertainment or are nightclubs that attract patrons 19 to 25 years of age. The proposed establishment is a small local pub style facility with an extensive menu and is designed to appeal to couples wanting a quiet adult venue for socializing in their community. There are no other (or few other) facilities with a similar focus.

- (e) Traffic, noise, parking and zoning:

The establishment is not expected to negatively affect traffic patterns and noise is not expected to be an issue because [of the small size and early hours] – **or** – [the applicant has agreed to various noise baffling strategies to ensure the neighbours are not disturbed by late night music]. The applicant has met the requirements of the zoning bylaw with regard to road access and parking. Council has passed a bylaw rezoning the property and a Development Permit permitting the use.

- (f) Population, population density and population trends:

The population for the community at 25,000 and 15,000 within a mile of the establishment with a growth rate of 3% supports the growth in the number of licensed establishments.

- (g) Relevant socio-economic information:

The contravention rates for surrounding establishments is less than the provincial average and does not indicate a problem with over-proliferation of licensed establishments in the community. The community has an unemployment and income assistance rate that is lower than the provincial average and a growing tourism industry based on expanding hunting and skiing lodges in the area and an increase in scheduled bus tours through the mountain passes.

- (h) The impact on the community if the application is approved:

If the application is approved, the impact is expected to be positive in that it will support the growth in tourism and offer a new social venue for residents.

Sample resolution template for a winery licence endorsement application

General Manager,
Liquor Control and Licensing Branch

RE: Application for a (winery lounge endorsement/picnicking endorsement) to winery licence number:
(winery licence number)

- or -

RE: Application for a (winery lounge endorsement/picnicking endorsement) to a winery licence at: (address
of proposed establishment, if applicant not already in possession of a winery licence)

At the (council/board) meeting held on (date), the (council/board) passed the following resolution with
respect to the application for the above named endorsement:

“Be it resolved that:

1. The (council/board) (recommends/does not recommend) the issuance of the endorsement for the
following reasons: (detail and explain reasons for recommendation)
2. The (council’s/board’s) comments on the prescribed considerations are as follows: (the council
or board may refer to the contents of any report attached to the resolution for further information
with respect to any of the considerations)
 - (a) The location of the (winery lounge/picnicking area) (provide comments)
 - (b) The proximity of the (winery lounge/picnicking area) to other social or recreational
facilities and public buildings (provide comments)
 - (c) The person capacity of the winery lounge (provide comments)
 - (d) Hours of liquor service of the (winery lounge/picnicking area) (provide comments)
 - (e) Traffic, noise, parking and zoning (provide comments)
 - (f) The impact on the community if the application is approved (provide comments)
3. The (council’s/board’s) comments on the views of residents are as follows: (describe the views
of residents, the method used to gather the views and provide comments and recommendations
with respect to the views. If the views of residents were not gathered, provide reasons).

The undersigned hereby certifies the above resolution to be a true copy of the resolution passed by the
(council/board) of (local government/First Nation) on (date).

Sincerely,

(signature)
(name and title of official)
(local government/First Nation)

Note:

- All of the items outlined above in points 1, 2(a) through (f) and 3 must be addressed in the
resolution in order for the resolution to comply with section 18 of the Liquor Control and
Licensing Regulation.
- A separate resolution must be provided for each endorsement application if the applicant is
applying for both a winery lounge endorsement and a picnicking endorsement
- Any report presented by an advisory body or sub-committee to the council or board may be
attached to the resolution.

Sample resolution template for a licence amendment application

General Manager,
Liquor Control and Licensing Branch

RE: Application for (addition of a patio/increase in person capacity/extension of hours of liquor service/patron participation entertainment) as an amendment to (liquor-primary/liquor-primary club/winery/food-primary) licence number: (licence number)

At the (council/board) meeting held on (date), the (council/board) passed the following resolution with respect to the application for the above named amendment:

“Be it resolved that:

1. The (council/board) (recommends/does not recommend) the amendment of the licence for the following reasons: (detail and explain reasons for recommendation)
2. The (council’s/board’s) comments on the prescribed considerations are as follows: (the council or board may refer to the contents of any report attached to the resolution for further information with respect to any of the considerations)
 - (a) The potential for noise if the application is approved (provide comments)
 - (b) The impact on the community if the application is approved (provide comments)
 - (c) Whether the amendment may result in the establishment being operated in a manner that is contrary to its primary purpose (provide comments only if the application is from a food-primary licence for an extension of hours of service past midnight or the addition of patron participation entertainment)
3. The (council’s/board’s) comments on the views of residents are as follows: (describe the views of residents, the method used to gather the views and provide comments and recommendations with respect to the views. If the views of residents were not gathered, provide reasons).

The undersigned hereby certifies the above resolution to be a true copy of the resolution passed by the (council/board) of (local government/First Nation) on (date).

Sincerely,

(signature)
(name and title of official)
(local government/First Nation)

Note:

- All of the items outlined above in points 1 and 2(a) through (c) and 3 must be addressed in the resolution in order for the resolution to comply with section 53 of the Liquor Control and Licensing Regulation.
- A separate resolution must be provided for each type of amendment if the applicant is applying for more than one of the prescribed types of amendments
- Any report presented by an advisory body or sub-committee to the council or board may be attached to the resolution.

Sample resolution template for opting out of comment in advance of applications

General Manager,
Liquor Control and Licensing Branch

RE: Provision of notice by the Liquor Control and Licensing Branch with respect to (liquor-primary licence applications and/or liquor-primary club licence applications and/or winery licence endorsement applications)

At the (council/board) meeting held on (date), the (council/board) passed the following resolution with respect to the provision of notice of liquor licence applications by the Liquor Control and Licensing Branch:

“Be it resolved that:

1. The (council/board) does not wish to receive notice of (liquor-primary licence applications and/or winery licence endorsement applications) pursuant to (section 10 and/or section 18) of the Liquor Control and Licensing Regulation
2. This resolution is in effect until (date)
3. This resolution is in effect for the following geographic areas: (describe the areas for which the resolution is in effect).

The undersigned hereby certifies the above resolution to be a true copy of the resolution passed by the (council/board) of (local government/First Nation) on (date).

Sincerely,

(signature)
(name and title of official)
(local government/First Nation)

Sample resolution template for opting out of comment on an individual application

General Manager,
Liquor Control and Licensing Branch

RE: (describe type of application)

At the (council/board) meeting held on (date), the (council/board) passed the following resolution with respect to the above named application:

“Be it resolved that the (council/board) does not wish to provide comments or recommendations to the Liquor Control and Licensing Branch with regard to the application for (describe type of application and applicant).

The undersigned hereby certifies the above resolution to be a true copy of the resolution passed by the (council/board) of (local government/First Nation) on (date).

Sincerely,

(signature)
(name and title of official)
(local government/First Nation)

HELP IS AVAILABLE

If you have any concerns or questions, please write, telephone or email the Liquor Control and Licensing Branch at:

Mailing address: PO Box 9292 Stn Prov Govt, Victoria, BC, V8W 9J8

Office address: 2nd Floor, 1019 Wharf St., Victoria, BC, V8W 2Y9

Email: lclb.lclb@gems4.gov.bc.ca

Phone: 250 387 1254 in Victoria

Toll free: 1 866 209 2111

Our web site also contains a range of helpful information along with licensee guides, application forms and links to the Liquor Control and Licensing Act and Regulations:

Web site: www.pssg.gov.bc.ca/lclb



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

Municipal Hall, 1229 Esquimalt Road, Esquimalt, B.C. V9A 3P1
Telephone (250) 414-7100 Fax (250) 414-7111

STAFF REPORT

DATE: June 29, 2009 **REPORT NO.** FIRE – 09 – 005
TO: Laurie Hurst, Interim Chief Administrative Officer
FROM: Paul Nelson, Fire Chief
SUBJECT: Emergency Social Services (ESS)

RECOMMENDATION:

That the Esquimalt Emergency Program takes over the responsibility to provide its own Emergency Social Services (ESS) team.

BACKGROUND:

Currently the City of Victoria provides an Emergency Social Services response using a joint Victoria/Esquimalt ESS team under contract. The contract provides for level 1, 2 and 3 responses in order to provide for the needs of displaced residents in time of disaster or local emergencies. The three levels of response correspond to the scope of the incident and the corresponding needs of the response team.

Level 1: Response team (2 – 4 members). Smaller events such as house fires or apartment fires with less than 10 evacuees.

Level 2: Response team (5 – 20 members). Medium size events with a reception centre activated, but no Emergency Operations Centre (EOC) activation.

Level 3: Response team (20+ members and public volunteers). Large events with a reception centre and an Emergency Operations Centre (EOC) activation.

The initial contract was signed in 2002 and subsequently renewed November 30, 2006 for a 5 year term. The City of Victoria recently served the required six month notice of early termination of the contract with the effective date of cancellation being December 1, 2009. The reason given for the termination relates to Victoria's determination that it is no longer in a position to provide the full scope of services outlined in the contract. Specifically, the City believes the response required to meet a level 3 activation in both Victoria and Esquimalt is no longer within the capability of the contracted ESS team. The City has expressed a willingness to enter into a new agreement for smaller activations (level 1 and 2) if desired.

The Township needs to eventually be able to field a level 3 response capability which is really only feasible if there is a level 1 and 2 team in place that can be expanded to level 3. It is not practical to try to train just a level 3 team and rely on a contracted response for levels 1 and 2,

since the level 3 team needs the lower level activations in order to maintain its skills and team interest for retention purposes.

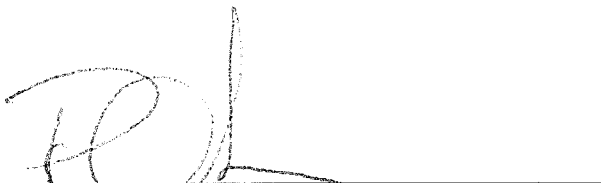
Victoria's staff has expressed a desire to work closely with Esquimalt to develop an Esquimalt ESS team. This team would gradually become the primary ESS response for Esquimalt. In the initial stages our team would work in tandem with the existing team (Victoria/Esquimalt ESS) for the period leading up to the completion of the current contract (December 2009) and also some time beyond (under a new contract).

In order to implement an Esquimalt ESS team there will need to be an ESS Coordinator who would oversee the operations, training and administration in conjunction with the Emergency Program Coordinator. The next step will be to recruit team volunteers and provide them with the appropriate training and equipment that is required. In addition, staff working at the Recreation Centre will need to be provided training on how to open and assist in running a Reception Centre (primary location being the Recreation Centre itself). Finally, it is recommended that a new short term contract with the City of Victoria be arranged.

The City of Victoria will supply a cost for a new contract to run from December 1, 2009 – November 30, 2010 to cover the provision of ESS level 1 and 2 response on an as required basis; however Esquimalt would be responsible to provide the administrative planning and support for all necessary ESS functions during that time. The new contract would contain an opting out clause on 30 days notice which will allow Esquimalt to terminate the contract as soon as its own ESS team is deemed fully operational. In addition, there is currently a regional form of mutual aid between all ESS teams to back up each other when necessary and Esquimalt would be expected to participate in that arrangement.

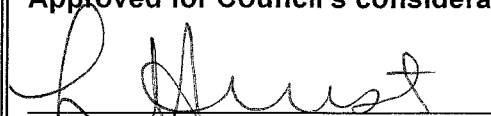
It is anticipated that the process of setting up an Esquimalt ESS team, transitioning from the existing situation and to provide our own level 1 and 2 coverage will take between 1 to 1 ½ years. Working to provide a Level 3 capability will be addressed as soon as level 2 is complete.

Financially, it is expected that the Emergency Program will stay within its 2009 ESS budget as well as operating within the same budget for 2010.



Paul Nelson
Fire Chief

Approved for Council's consideration:



Laurie Hurst, VCAO

Dated: June 30/09



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

Municipal Hall, 1229 Esquimalt Road, Esquimalt, B.C., V9A 3P1
Telephone (250) 414-7100 Fax (250) 414-7111

STAFF REPORT

DATE: July 9, 2009 **REPORT NO.** DEV-09-045
TO: Laurie Hurst, Interim Chief Administrative Officer
FROM: Barbara Snyder, Director of Development Services
SUBJECT: SECONDARY SUITES

RECOMMENDATION

That Official Community Plan Bylaw, 2007, No. 2646, Amendment Bylaw [No. 3], 2009, No. 2707 and Zoning Bylaw, 1992, No. 2050, Amendment Bylaw, [No. 185], 2009, No. 2708 be considered for 1st and 2nd readings; and

That a Public Hearing for Bylaw No. 2707 and Bylaw No. 2708 be scheduled for September.

BACKGROUND

History and Timeline

Draft Bylaw No. 2707 which would amend the OCP and draft Bylaw No. 2708 to amend the Zoning Bylaw were presented to the Committee of the Whole on May 11th, 2009 and a further report outlining a proposed timeline for adoption of the bylaws was presented to Council on May 25th.

The COTW had recommended more opportunities to familiarize the public with the proposed regulations and receive community input and it was decided that Buccaneer Days [June 12 - 14th] was a good opportunity to gather further public input. Since this spring's Information Meeting and Buccaneer Days, a total of 15 questionnaires have been returned to Development Services; a summary of those responses is attached.

if Council still feels the need for more public consultation prior to the official Public Hearing to consider the amending bylaws, another Information Meeting could be held during the summer recess. However, given the low attendance at previous meetings, this may not be useful.

Public Concerns

The issues which seem to be controversial, based on the feedback received to date, are:

- Owners do not want to have suites regulated or registered as a "Home Business" as this would make the rents collected subject to income tax. Having suites registered as businesses would also mean that the residents of the suites could not carry on other home businesses within the suites and the owners could not have other home businesses within the principal dwelling units.

.../2

- Owners are concerned that there is no incentive for them to go to the cost of legalizing their suites [i.e. bringing them up to code and paying registry fees] if their neighbours aren't going to do the same. The municipality needs to think about how the registration process is to be implemented and what incentives may be provided to encourage compliance.
- There seems to be disagreement between residents who feel parking is a serious issue and that the owners of suites must be able to provide additional parking on site and those who feel the provision of an extra parking space is too onerous. In terms of the number of responses, the provision of adequate off-street parking is a high concern.
- The recommended 'private space' was seen to be unnecessary as renters are normally entitled to use the open space surrounding the principal residence and having a dedicated open space for the rental unit could cause problems in the future.
- Some residents felt that if regulations are too stringent and it's too costly to bring suites into compliance, owners may not bother to register suites and they are concerned how will the municipality enforce this. However, the majority of residents who returned questionnaires felt that strict compliance with building code and safety issues should be required.

Advisory Planning Commission Recommendation

When the issue of Secondary Suites was discussed at the Advisory Planning Commission, their recommendation was:

Recommend to Council to approve of the Draft Secondary Suite By-law with the following recommendations:

1. Delete "private space" requirement;
2. Delete "owner occupied" requirement;
3. Create a registry instead of a requirement for a business licence;
4. Keep the by-law simple;
5. Provide flexibility in the parking requirements;
6. Provide some type of incentive (waive fees).

Legal Review

Draft bylaws No. 2707 and No. 2708 have not yet been reviewed by our lawyers. It is suggested that, should Council give 1st and 2nd reading to the amending bylaws on July 13th, staff could then forward the bylaw to our lawyers during the summer break. If our lawyers recommend changes, the bylaws can be amended in August prior to a Public Hearing and 3rd reading. Alternatively, Council could defer consideration of 1st and 2nd readings until the bylaws have been reviewed.

Public Hearing

It is suggested that a Public Hearing be scheduled for mid-September to allow the greatest number of residents to participate. This will also allow time to complete an implementation plan and work out the details of the permitting process. As always, input at the Public Hearing may cause Council to consider changes to the amending bylaws.

Implementation

Prior to final adoption of the amending bylaws, staff and Council need to work out a plan for implementing the new regulations [e.g. deadlines for applying for permits, waiver of fees for early registration, permit fees, etc].

Some of the things to consider are:

- **Media/Information Campaign** - a combination of methods to alert homeowners of the new regulations and encourage them to register their suites. This would involve advertising local newspapers, articles in the municipal newsletter, notice on our website, letters to owners of properties known to have suites, posters in civic buildings and television/radio interviews with Council members.
- **Incentives to Encourage Owners to Register Suites** such as having a window of opportunity where homeowners could register suites [either existing or new] without cost or at a reduced cost. Incentives could include free Building Inspection for the suite, a reduced registration fee or waiver of registration fee, and inclusion of a years worth of garbage pick-up tickets for the suite occupants [i.e. 26 garbage tickets].

Registered suites are a benefit to the homeowner in that they can be marketed as legal suites and qualify the homeowners for larger home mortgages. Being classed as a 'legal suite' is also a security for the tenants.

- **Enforcement of new Secondary Suite Regulations** [once adopted]
Using garbage collection data, municipal property files and BC Assessment records, identify which residences contain suites, letters could be sent to owners requesting that they register their suite by a selected date [e.g. July 3, 2010]. The first letter would encourage suite registration, explaining the process and outlining benefits to the owner as noted above. A second follow-up notice would inform those owners who did not respond, that they would face higher Building Permit fees if they wish to keep the suite after the enforcement process has begun.

Council's current policy of only investigating suites on receipt of a written complaint by a resident should be reconsidered to provide the Bylaw Enforcement Officers the ability to require compliance whenever they are aware of a non-complying suite.


- **Developing a Suite Registration Database**
A Registry could be developed using the existing Tempest system or other systems could be investigated.

Prior to taking the Secondary Suite bylaws through the legal vetting and to the scheduling of a Public Hearing the issue of whether Esquimalt is going to adopt a two-tier system similar to that of View Royal, as well as another other major changes to the draft bylaws, needs to be clarified.

Respectfully submitted,



Barbara Snyder
Director of Development Services

<p>Approved for Council's consideration:</p>  <p>Laurie Hurst, I/CAO</p> <p>Dated: <u>July 9/09</u></p>
--

SECONDARY SUITES – SUMMARY OF ALL RESPONSES SUBMITTED - 2009

DRAFT CRITERIA UNDER CONSIDERATION		AGREE	DISAGREE	COMMENTS
A. I am in favour of legalizing secondary suites in Esquimalt with certain conditions.	11111 11111 11111			<ul style="list-style-type: none"> If conditions are agreed to/ adopted – they must be enforced. If you are not going to enforce the bylaw then don't waste the time & effort to adopt it. It depends on the condition you want to impose. Like the community did say Keep it Simple Must have ample parking, parking is a real problem on the streets of Esquimalt Secondary Suites are 'A Fact of Life', residents of a neighbourhood should have some control over them Mandate off street parking Why not allow also in Duplexes, but not in Row Houses. I assume my house that is strata titled is legally a house But based on a set criteria established by the municipality There are many existing duplexes with suites, I want suites legal in duplexes look at square footage. R1 should be included in new bylaws, especially if house is Owner –occupied, my house has had an illegal suite (duplex) for over 20 years. It has helped many people in need to live in the suite & helped provide income for education at post secondary. SECONDARY SUITES should be legal in single family and Duplexes. This is 2009 – the economy is not good Not in Duplexes/ Multiple Family units/ Condos/ Apartments only permitted in a single family home as stated Depends on building code requirements, parking – Why would some areas be exempt? – Residents should have a say Some do not have adequate space for parking/ recreation etc. There should be a minimum square footage for Residence & suite – lot size & building size With required off street parking Not duplexes! There is higher density in duplex zonings. Suites will further increase density. Should have a min lot size ie. don't permit on 30' infill lots On individual basis carriage houses should be permitted Some garages in Esquimalt are now separate cottages Permitted in the principle dwelling (Bids) only Neighbourhood density is an issue – especially for established residents What? 'garretages' ok (garages turned into cottages) Not in duplexes. If duplexes are allowed suites, it is not a duplex, it is a fourplex Would favour suites over double garages I think it is preferable but if it seen as a 'business' then enforce any & all rules pertaining to a business. Don't use 'need for housing' as an excuse! Neither – you need to look at that very closely, owner-occupied is good because to make sure all is done in order, but what if an owner afterwards wants to take a leave of absence? You shut down the Appt. down? If owner does not occupy the single family dwelling you'll have two suites – and a very good possibility of a 'Slum Lord'. No owner occupied – no secondary suite Absolute must! No recourse for neighbours re: undesirable behaviour of tenant, encourages absentee/ 'slum' landlords Owner must occupy the a main house to ensure regulations are followed Owner must be there Who cares? Lots of owners treat property very poorly & lots of landlords are careful with their assets. Owner must live in one of the units. These are not boarding houses. I don't know perhaps older smaller homes would have a problem with 40% - makes apt. to small! Existing suites may be greater in size Who cares. if an owner wants to live in the bachelor & rent out the main, how is that your concern? 50% ok
B. Secondary suites should be permitted in any single family home within a single family zone in the Township of Esquimalt.	11111 1111	11111 1		
C. One suite per single family dwelling should be permitted within the principal dwelling (building), and not in an accessory or detached building.	11111 11111 --	1111		
D. The single family dwelling with a secondary suite does not need to be owner occupied.	-1111	11111 11111		
E. The secondary suite must not exceed 40% of the habitable floor space of the principal residence or 90m ² , whichever is less (40% is taken from the BC building Code)	11-1 -1111 -111	1		

SECONDARY SUITES – SUMMARY OF ALL RESPONSES SUBMITTED - 2009

DRAFT CRITERIA UNDER CONSIDERATION	AGREE	DISAGREE	COMMENTS
<p>F. One off-street parking space is required for the secondary suite in addition to the off-street parking space required for the single family residence. Variances to parking requirements may be considered.</p>	<p>11111111-11 1</p>	<p>1111</p>	<ul style="list-style-type: none"> • Lots of homeowners have more cars than space and park on the street, street parked cars are known to reduce the speed of passing cars, I hope you do not want front yards put into parking spot • Off street parking mandatory for secondary suite & single family residence (not all streets have parking both sides of street i.e. 800 Block Wollaston Street. Parking on both sides of street would open up area for more parking and even have a positive effect on slowing down speeders. • If owner or renters have more than one car need to supply parking for them too • A secondary suite is often shared accommodation – each 'tenant' often has a car-parking needs double or triple – streets become narrowed to single vehicle passage & exiting your driveway can also be difficult. • Some houses need more than one off street parking space – many owners have 2 vehicles – thus requiring more off street parking – parking should not plug up the front yard • The parking spot off streets could be in addition or in lieu of homeowners, some residents don't use their one off street spot as they have sufficient space in their driveway and/or garage • 2 spaces for suite, 2 spaces for S.F. residence • No variances unless a covenant for car less owners/tenants • Disagree with creating parking spaces to the detriment of green landscaping • Come up with guidelines for variances. This will be seriously contested every time there is an application. • Too many added on Duplexes have a suite in each or are now triplexes or even four-plexes • With secondary suites permits & business licenses will be required – strata titles should be limited to duplex not secondary suites • Don't care. If people want to saddle themselves with strata let them. They'll figure out by themselves why it's stupid
<p>G. Owners of a single family dwelling with a new or existing secondary suite will be required to register a "Section 219 Covenant" with the Victoria Land Title Office to ensure that the building cannot be subdivided into strata title units.</p>	<p>1111-1 -1111 1111</p>	<p>1</p>	<ul style="list-style-type: none"> • The license is important. The building permit for new construction is important. For existing units it may not be possible to meet the 2009 code in all respects • Waive the permit fee and perhaps the annual license fee for a few years and keep the yearly fee at a very reasonable level – remember some landlords are seniors with not a lot of income • It is a business therefore an annual business license is required with a maximum fee of \$500.00 annually (cost of doing business) Owner should be able to save this in a year from the rent, write offs etc. Never mind profit & mortgage helper • Annual maintenance & building code standards will maintained, neighbourhood grievances can be addressed, rental income identified • Building Permit – yes / Annual License – no • What if a person has a suite & refuses to legalize it? • Keep your hands out of pockets & keep assessments up to date. • Permit – yes. Annual license – no • Business License
<p>H. To legalize a new or existing secondary suite in a single family dwelling, a building permit and an annual licence will be required.</p>	<p>1111- --11- -111</p>	<p>1</p>	<ul style="list-style-type: none"> • Oh please • If not controlled could become a real can of worms, (ie) self employed individuals etc. Painter/ handyman/other small businesses neighbourhood could regress. Serious thought be given to this issue • Agree – building permit Disagree – no annual licence but have to report suite and be present in home (owner) or present in dwelling • As long as the home business does not entail extra traffic i.e. secondary suite plus hairdressing salon • No other rentals should be permitted eg. Renting single rooms • Don't feel a secondary suite is a form of business • I do not consider a secondary suite to be a home business • Do you want sustainable commercial development of no? • Office oriented businesses are fine. • Would support home based business w/low traffic ie. I do consulting from home • Don't care • Must maintain exterior of home and yard (could tie in with above) This is a business & no excuse why exterior should be neglected. Its not just a profit/ money maker/mortgage helpers. It is a residence in a neighbourhood, be kept up not let to run down • Necessary to retain the character of the neighbourhood & protect residents buying/living in legitimate single family homes • Who cares? • 2 entrance doors permissible. Suite door often where garage door was so hard to hide.
<p>I. As secondary suites would be a form of home business, no other home occupations would be permitted.</p>	<p>11-111</p>	<p>11111 1111</p>	<ul style="list-style-type: none"> • As long as the home business does not entail extra traffic i.e. secondary suite plus hairdressing salon • Don't feel a secondary suite is a form of business • I do not consider a secondary suite to be a home business • Do you want sustainable commercial development of no? • Office oriented businesses are fine. • Would support home based business w/low traffic ie. I do consulting from home • Don't care • Must maintain exterior of home and yard (could tie in with above) This is a business & no excuse why exterior should be neglected. Its not just a profit/ money maker/mortgage helpers. It is a residence in a neighbourhood, be kept up not let to run down • Necessary to retain the character of the neighbourhood & protect residents buying/living in legitimate single family homes • Who cares? • 2 entrance doors permissible. Suite door often where garage door was so hard to hide.
<p>J. All single family dwellings with a secondary suite must maintain the exterior appearance of a single family home.</p>	<p>1-111 11111 111</p>	<p>11</p>	<ul style="list-style-type: none"> • As long as the home business does not entail extra traffic i.e. secondary suite plus hairdressing salon • Don't feel a secondary suite is a form of business • I do not consider a secondary suite to be a home business • Do you want sustainable commercial development of no? • Office oriented businesses are fine. • Would support home based business w/low traffic ie. I do consulting from home • Don't care • Must maintain exterior of home and yard (could tie in with above) This is a business & no excuse why exterior should be neglected. Its not just a profit/ money maker/mortgage helpers. It is a residence in a neighbourhood, be kept up not let to run down • Necessary to retain the character of the neighbourhood & protect residents buying/living in legitimate single family homes • Who cares? • 2 entrance doors permissible. Suite door often where garage door was so hard to hide.

SECONDARY SUITES – SUMMARY OF ALL RESPONSES SUBMITTED - 2009

DRAFT CRITERIA UNDER CONSIDERATION	AGREE	DISAGREE	COMMENTS
K. The minimum lot size on which the dwelling unit with a suite is located must not be less than 630 m ² .	1-1--1111 -1	11	<ul style="list-style-type: none"> Look at that famous 40% This is a small lot – No secondary suites on very small lots 7000 square feet If the house has 3 huge floors? This is prejudice against people with older, non-compliant homes. Should have a min lot size ie. Don't permit on 30' infill lots.
L. Municipal garbage pick up for single family dwellings with suites will remain at 2 bags every two weeks. Additional garbage bags will require stickers which can be purchased at the Town Hall or Recreation centre.	11111 111-1 11	111	<ul style="list-style-type: none"> There is no need to take any approach that is more detailed. The garbage rate bylaw accommodates any additional garbage generated – if any If they are paying extra taxes to have a suite they are entitled to pickup Stickers should be required, additional dwellings mean more garbage, since the suites are considered a home business, hence the stickers could be business expenses Business Eth! Well like a normal residence anything over (2) two bags require stickers. Well same goes for this business. Stickers are required – owners can include cost of stickers in rent and supply them to tenant – limit to be determined ie. same as owner (2) Should have garbage pickup once or twice a year like we used to for getting rid of junk or clean-up An additional levy on municipal taxes might be an option for homes with secondary suites If annual fee is charged and/or taxes go up due to a secondary suite then they should be allowed 3 bags every 2 wks. They are paying for it! Raise to 3 No one pays more for a family of 8, no-one person households get a discount. Make additional garbage stickers prohibitive, \$50.00 per bag No limit on recycling
M. The Township should consider waiving Building Permit fees for the construction required to upgrade existing suites in single family dwellings to legal status, for a period of one year after the adoption of a new secondary suites bylaw.	111-- 111	11111 11	<ul style="list-style-type: none"> But I'm not sure if the 2009 Building Code may be too stringent for existing units to comply. But make it min. 3 years & up If you want to start a business especially this day & age You'd better be willing to pay – you get nothing for nothing the dollar rules, owners should do their homework before starting a business etc... costs etc. All suites should be examined for required upgrades if needed and permits needed with inspections that apply before being allowed to be legal suite Revenue from secondary suites is unregulated & probably untaxed – a 30 day "registration" period might be in order – suite inspection + 6 months waiver of permit? They should have a permit (inspection) and pay for it. Do not waive permit fees. It is a business If this is case, Building Permit fees for new suites should be waived for 1 yr also! Only fair! Need longer period – about 5 years Waive them for everyone or not. Longer amnesty, 3 years, 5 years, unless permit covers principal structure
N. If existing suites cannot meet basic life safety requirements (smoke detectors, access and egress and other requirements), approval by Council of an order to remove the suite will be sought.	-1111 11111 1-1	11	<ul style="list-style-type: none"> Let the owners look after that, only if there grave danger for life take draconian measures Safety for all should be first concern Not fair for people willing to live in those suites Owner/ suites cannot will not meet basic requirements not allowed to have a suite period! Will need follow-up inspection to ensure the suite is either upgraded or removed – equally important for tenant & neighbour i.e. fire No one does anything about houses that don't - quit picking on people This should not be a council decision. This should be a by-law infraction & enforceable by law, police if necessary. Toughen by-law enforcement so that the onus is not on neighbours to police/complain.
O. All suites will require full Building Code compliance and the Township will encourage the construction of new homes with suites to become BC Hydro Powersmart certified or equivalent.	11111 1111- 111	11	<ul style="list-style-type: none"> See "M" above. The current building code maybe impossible to meet. Provide for some alternative criteria. For new homes – but what about older homes that can be very safe but never able to go up to today's code BC Hydro Powersmart certified etc. Follow-up inspection – Secondary suites often contain recycled/ second hand appliances What about suites win "minor exception" – like height & smaller windows – things that could be very difficult & expensive to rectify. What a great idea – more catastrophic building failure, anyone? No? Not encourage REQUIRE! Make it mandatory!

SECONDARY SUITES – SUMMARY OF ALL RESPONSES SUBMITTED - 2009

DRAFT CRITERIA UNDER CONSIDERATION	AGREE	DISAGREE	COMMENTS
<p>P. The Township should consider organizing and hosting a free workshop for residents on tenant selection, the Residential Tenancy Act, and grant opportunities for the construction or legalization of secondary suites.</p>	<p>11111 11111 1111</p>	<p>1</p>	<ul style="list-style-type: none"> • Not necessary. They are becoming "business" people and the municipality has no responsibility to "hold their hand" • Thank you • This may turn into being a mandatory thing for anyone considering getting into the secondary suite business. Possibly free for first year & then a small fee there after, ie \$20.00 per head • Important re: owners responsibilities and liabilities re: tenants & neighbours – Grant opportunities need to be reflected in business licences &/or taxes • I like the idea of a workshop etc. but think there should be a fee. – After all – it is a business they want to run • Definitely, and if you give "breaks" to older suites in order to have them legalized – give some breaks to those wanting to build new suites • Always a good idea to pretend to be informed & pretend to pass on that poorly – gathered personal opinion to the residents

Additional Comments:

- Important that the home with secondary suites be owner occupied.
- By-law officers must have ability to intervene when suite does not comply with regulations – eg. Parking, no. of tenants, suite not to code. More money needs to be allocated for staff that can enforce regulations. At least another full time position besides the existing by-law officer.
- 800 Wollaston – parking only on one side allowed currently & parking issues. Suites would make it worse.
- PARKING? , Properties being assessed correctly, re. suite, frontyards being used as backyard space ie. BBQS, clothes lines, etc.
- Perhaps you can help with \$\$ when owners have to make some changes to become up to code up to a certain amount
- Revenue from secondary suites should be recorded & accounted for as well as reflected in building permits & licenses, homeowner grants & federal/provincial taxes
- Secondary suites as affordable housing? Owners will charge what the market will bear – rent regulation?
- But over regulation & stringent building requirements = people won't make their suites legal. Also, if suite is legalized, will BC Assessment increase home value & raise property taxes? We saw this in View Royal when they legalized suites.

STAFF REPORT

DATE: May 4, 2009 **REPORT NO.** DEV-09-025
TO: Tom Day, Chief Administrative Officer
FROM: Barbara Snyder, Director of Development Services
Subject: **SECONDARY SUITES**

RECOMMENDATION

1. That this Report and the attached amending bylaws, which would authorize Secondary Suites in certain zones and regulate their use, be received for information and comment; and
2. That the Timeline set out on Page 4 of this Report be approved.

BACKGROUND and DISCUSSION

Council, through the past and current Strategic Plans, has identified “*review Secondary Suites Policy and enforcement practices*” as a priority action. This report provides a historical context of suites in Esquimalt as well as the impacts/benefits of suites to owners, tenants and the community.

Two draft bylaws, one amending the Official Community Plan and the other amending the Zoning Bylaw are attached as Schedules “C” and “D”.

Secondary Suite Defined:

Generally, a Secondary Suite is a self-contained second dwelling unit which is built into or attached to an existing single family dwelling. The secondary unit is private and smaller than the primary unit. In addition to the kitchen and bath, the suite usually contains one or two bedrooms and a living room. The primary and secondary units usually share any combination of yard space, entrance, and on-site parking. Secondary suites are often found in those areas of the dwelling with the greatest potential for conversion [i.e. attics, basements, above garages].

Currently, there is no zone in Esquimalt which permits Secondary Suites. The RD-1, RD-2 and RD-3 zones, although intended for duplexes, would permit a single family residence with a suite if the suite is considered to be the second half of an up-and-down duplex. Although the zoning bylaw doesn't permit secondary suites, there are many throughout all parts of the community.

The definition of a Secondary Suite does not include additional units constructed in buildings which are already duplexes. The “four-plexing” of duplexes is a separate issue that triggers different considerations.

There are a number of municipalities that do not permit secondary suites [e.g. Saanich] while other municipalities have embraced them and some such as Langford have mandated that a suite be constructed in any single-family dwelling on a parcel greater than 600 square metres in area.

The popularity of suites in recent years has been in response to two primary issues; the first is low vacancy rate in the Capital region and the second is housing affordability. Suites provide an affordable housing alternative for persons looking to rent and a mortgage helper for first-time home buyers or homeowners with limited or fixed incomes. Suites are not indicative of poorer communities or neighbourhoods, they are found in every community.

A CMHC research paper dated October, 2001, "*The Impact of Municipal User Fees on Secondary Suites*" indicates that "while the demand for housing units generally continues to grow, the average number of people per household has steadily declined, resulting in significant housing needs and demands. As the traditional middle-class family becomes a less dominant factor in the housing market, the market must respond to the needs of smaller, and often, less affluent households, single-person households, single-parent families, childless couples, elderly and retired households, and shared-accommodation households."

Benefits of Secondary Suites:

Secondary suites are a cost-effective means of increasing the supply of affordable rental housing without requiring substantial local government funding. Secondary suites provide a gradual means of achieving more housing in a given area.

For the homeowner, a secondary suite:

- Encourages and enables the homeowner to invest in their home, thereby contributing to the maintenance and revitalization of their neighbourhood;
- Subsidizes mortgage and maintenance costs for first-time buyers;
- Assists elderly homeowners to remain in their homes with greater security and potential support with home maintenance.

For the Community, suites:

- Increase home values which generates higher property tax revenues;
- Support the environment by encouraging more compact communities, land conservation, and energy efficiency with respect to transportation and household operation;
- Create more adaptable communities which are better able to meet the housing and social needs of different demographic groups throughout their life cycle.

Potential Impacts:

The following issues are often raised over the general impact of suites:

- Suites do not pay fair share of property taxes;
- Suites generate increased parking problems;
- Schools are overcrowded;
- Increased use/burden on infrastructure (water, sewer, garbage);
- Increased potential for absentee landowners.

The CMCH 2001 research paper titled "*The Impact of Municipal User Fees on Secondary Suites*" examined a number of the above impacts and found a number of these perceived impacts to be unfounded.

- Majority of home owners have no intentions of converting homes to accommodate secondary suites;
- Secondary suites do not have an overall significant impact on municipal services and costs. Given the trend to smaller households secondary suites can absorb under utilized capacity and allow for more efficient provision of services (water, sewer, garbage);
- Secondary suites serve to offset declines in the school population;
- Impact on parking was found to be negligible as people who live in suites tend to own fewer cars.

Local Government Powers for Managing Suites:

Local governments have the regulatory authority to govern secondary suites under:

- Planning policies (i.e., OCP, Neighbourhood Plans);
- Regulations – use of bylaws and regulations to manage secondary suites;
- Land Use Designation (i.e., number of units, size of suites, geographic area);
- Financial Powers – user fees and property taxes;
- Penalties and Enforcement – Licenses, municipal tickets, notices on title, the *Offence Act*

Criteria for Consideration:

The issue of secondary suites is not new to BC municipalities. There are a number of recently adopted bylaws and studies to draw from as resources. In reviewing a number of these documents the following criteria seem to be common:

1. Suites are limited to single-family dwellings only;
2. The single-family dwelling is to be owner occupied;
3. The suite is restricted to lots greater than a set parcel size;
4. The suite is not obtrusive to the single-family character of the neighbourhood;
5. One additional parking space is provided;
6. A maximum floor area is set for the suite;
7. Business license is required for the suite;
8. Suite is not subject to subdivision under either the *Land Title Act* or *Strata Property Act*.

Actions to Date:

A Focus Group meeting was held on March 19, 2008 to discuss a number of items related to secondary suites [a copy of the proceedings of that meeting are attached as Schedule "A"]. Group participants included representatives from the Advisory Planning Commission, from not for profit agencies, the building industry, and Development Services staff.

An Open House was held the evening of June 4, 2008 to familiarize the community with issues around Secondary Suites and receive feedback. A questionnaire [copy attached as Schedule "B"] was distributed that evening and also made available on the municipal website. In total, only 22 questionnaires, 15 hard copies and 7 online, were returned. A summary of those responses is attached as Schedule "B"

Due to staff changes and competing priorities, the secondary suite review was not completed in 2008 as planned.

Proposed Regulations:

In order to amend the Zoning Bylaw to add regulations regarding secondary suites, an amendment to the Official Community Plan is required to convert the general discussion of suites to actual Policies. The draft OCP amending bylaw is attached as Schedule "C".

The attached Schedule "D" is a draft bylaw which would amend Zoning Bylaw No. 2050 to allow legal Secondary Suites in all Single Family Residential zones with the exception of the RS-4 zones, which are intended for Bed & Breakfasts, and all Comprehensive Developments zones. The two bylaws may be dealt with together, however, the amendment to the OCP should be adopted first.

The proposed secondary suite regulations as set out in the amendments to the zoning bylaw incorporate the regulations of several municipalities; Esquimalt Council may wish to amend or remove some of the requirements and add others as deemed appropriate. It is also anticipated that there will be changes to both draft bylaws following the review by the Advisory Planning Commission and the public Open House scheduled for later this month.

Prior to the amending bylaws being given 1st and 2nd reading, they will be reviewed by our lawyers to ensure that all conditions are enforceable.

Proposed Timeline:

Introduction of proposed amending Bylaws to Committee of the Whole	May 11th
Draft Bylaws referred to Advisory Planning Commission	May 26th
Public Information Meeting	May 28th
Bylaw and Report outlining recommended changes to the amending Bylaws to Council for 1st and 2nd reading	June 15th
Public Hearing	July 6th or 13th*
Final Adoption	July 13th or after Summer Recess

* The Canada Day Holiday [July 1st] affects the advertising of the Public Hearing and may prevent it from being held on July 6th.

Respectfully submitted,

Barbara Snyder
Director of Development Services

<p>Approved for Council's consideration:</p> <p>_____ Laurie Hurst, A/Chief Administrative Officer</p> <p>Dated: _____</p>

CORPORATION OF THE TOWNSHIP OF ESQUIMALT

BYLAW NO. 2707

A Bylaw to amend Bylaw No. 2646, cited as the
"Official Community Plan Bylaw, 2007, No. 2646"

THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF ESQUIMALT, in open meeting assembled, enacts as follows:

1. This bylaw may be cited as the *"OFFICIAL COMMUNITY PLAN BYLAW, 2007, NO. 2646, AMENDMENT BYLAW [NO. 3], 2009, NO. 2707"*.
2. That Bylaw No. 2646, cited as the "Official Community Plan Bylaw, 2007, No. 2646" be amended in Section 3.3.3 Secondary Suite Policies as follows:
 - 1) by removing paragraph 3, including items a) through f) of Section 3.3.3 in its entirety.
 - 2) by adding the following text and figures as paragraph 3 of Section 3.3.3
 - a) *Subject to safety and other performance criteria, one secondary suite is considered appropriate within a single-unit dwelling, in zones which permit such use.*
 - b) *Secondary suites are not acceptable in two-unit dwellings [i.e. duplexes], townhouses or other multiple family units.*
 - c) *In the interests of maintaining the overall appearance and character of Esquimalt's neighbourhoods, there are limits on the size of secondary suites, on the size of the suite relative to the primary dwelling, to the number of off-street parking spaces required and other matters as controlled by the Zoning Bylaw.*
 - d) *All secondary suites are subject to the Zoning Bylaw, Building Bylaw and the BC Building Code. Existing suites that are found to be non-compliant with any of those regulations will be required to upgrade. If an upgrade is not undertaken, or the suite cannot be made compliant, in the interests of safety it will be closed.*
 - e) *All suites whether new or existing must be registered with the Township of Esquimalt. Owners will be charged a business license fee.*
 - f) *The Township will encourage the upgrading of poorly maintained two-unit projects [i.e. a single family residence with a secondary suite], through enforcement of the Maintenance of Property Bylaw."*

READ a first time by the Municipal Council on the ---- day of -----, 2009.

READ a second time by the Municipal Council on the ---- day of -----, 2009.

A Public Hearing was held pursuant to Sections 890 and 892 of the *Local Government Act* on the ---- day of -----, 2009.

READ a third time by the Municipal Council on the ---- day of ----, 2009.

ADOPTED by the Municipal Council on the ---- day of ----, 2009.

CORPORATION OF THE TOWNSHIP OF ESQUIMALT

BYLAW NO. 2708

A Bylaw to amend Bylaw No. 2050, cited as the
"Zoning Bylaw, 1992, No. 2708"

THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF ESQUIMALT, in open meeting assembled, enacts as follows:

1. This bylaw may be cited as the "ZONING BYLAW, 1992, NO. 2050, AMENDMENT BYLAW [NO. 185], 2009, NO. 2708".

2. That Bylaw No. 2050, cited as the "Zoning Bylaw, 1992, No. 2050" be amended as follows:

- 1) by adding the following words and figures in Section 2- Definitions of PART 1 - Interpretation:

"Private Open Space" means a useable open space area exclusive of required front yard and side yard building setbacks and parking areas which is developed for the recreational use of the residents or a dwelling unit, and may include balconies, indoor common amenity space, patios, decks and level landscaped recreation areas.

"Secondary Suite" an additional Dwelling Unit that is contained within a Single Family Residence, with no portion located within an Accessory Building or Structure, and is clearly subordinate to the principal Dwelling Unit.

"Single Family Residence" means a detached building containing one Dwelling Unit intended for the use of one Family.

- 2) by adding the following words and figures in Section 13 - Home Occupations of Part 4 - General Regulations:

"(12) Any Home Occupation that attracts customers or clients to the site is not permitted within a Secondary Suite."

- 3) by adding the following words and figures as Section 30.6 of Part 4 - General Regulations:

"30.6 SECONDARY SUITES

Secondary Suites are permitted in the RS-1, RS-2, RS-3, and RS-5 zones subject to the following:

- (1) *The Secondary Suites must be located within a Single Family Residence.*

- (2) *Only one Secondary Suite shall be permitted in any Single Family Residence.*
- (3) *Any Single Family Residence containing a Secondary Suite must be connected to the municipal sanitary sewer system.*
- (4) *A Secondary Suite may not be created as a strata lot within the Single Family Residence.*
- (5) *A Secondary Suite may be 90 m², or 40% of the total floor area of the Principal Building, whichever is less.*
- (6) *A minimum of 15 m² of Private Open space shall be provided for the use of the residents of the Secondary Suite.*
- (7) *Secondary Suite access to the outside shall be on a separate exterior wall from the Principal Building access.*
- (8) *A lighted pathway must be provided between the fronting street and the entrance to the Secondary Suite.*
- (9) *Parking shall be provided as required by Parking Bylaw No. 2011 for Two Family Residential Use, i.e. one off-street parking stall for the Single Family Residence and one off-street parking stall for the Secondary Suite.*
- (10) *The Secondary Suite shall be contained within the Single Family Residence and if an addition is made to the Single Family Residence to accommodate a Secondary Suite, the structural alterations or additions must not alter the existing residential character and form of the neighbourhood.*
- (11) *The owner of every Single Family Residence wishing to use part of the Building for a Secondary Suite shall obtain a building permit from the Township of Esquimalt by making an application in the prescribed form to the Township and must provide a statutory declaration indicating that either the Single Family Residence or the Secondary Suite is or will be owner-occupied.*
- (12) *The Township of Esquimalt Building Official shall issue the permit for the suite in the prescribed form if the premises comply with the requirements of this Bylaw, the B.C. Building Code and other Township bylaws for such use.*
- (13) *Every owner who has obtained a permit under this section shall, within one week of receiving written notice to do so, provide to the Building Official of the Township of Esquimalt, a statutory declaration indicating that the Residential Single Family building or Secondary Suite continues to be owner-occupied, but in no case*

shall an owner be required to provide such a declaration more than once in any six-month period.

- (14) *The Building Inspector may conduct inspections and issue written confirmations for the purposes of this Section.*
 - (15) *A Secondary Suite is not permitted in zones RS-4 or RS-4A which are intended to accommodate Bed and Breakfasts.*
 - (16) *A Secondary Suite is not permitted within any Comprehensive Development zone.*
 - (17) *A Secondary Suite may be permitted in a Multiple Family Residential zone provided that the use of the Parcel is Single Family Residential and that the Parcel is at least 530 m² in area.*
 - (18) *Secondary Suites are permitted in the RD-3 Zone provided that the use of the Parcel is Single Family Residential.*
 - (19) *Secondary Suites are considered to be a Home Occupation of the principal Dwelling Unit and a Business License will be required.*
- 4) by adding the following words and figures in Part 5 - Division 1 - Residential Zones:

Add to Section 34 (1) - Permitted Uses

“(d) Secondary Suite; subject to the requirements of Section 30.6”

Add to Section 35 (1) - Permitted Uses

“(d) Secondary Suite; subject to the requirements of Section 30.6”

Add to Section 36 (1) - Permitted Uses

“(d) Secondary Suite; subject to the requirements of Section 30.6”

Add to Section 37.1 (1) - Permitted Uses

“(d) Secondary Suite; subject to the requirements of Section 30.6”

Add to Section 40. (1) - Permitted Uses

“(d) Secondary Suite within a Single Family Residence subject to the requirements of Section 30.6”.

READ a first time by the Municipal Council on the ---- day of -----, 2009.

READ a second time by the Municipal Council on the ---- day of -----, 2009.

A Public Hearing was held pursuant to Sections 890 and 892 of the *Local Government Act* on the ---- day of -----, 2009.

READ a third time by the Municipal Council on the ---- day of ----, 2009.

ADOPTED by the Municipal Council on the ---- day of ----, 2009.

STAFF REPORT

DATE: May 21, 2009 **REPORT NO.** DEV-09-031
TO: Laurie Hurst, A/Chief Administrative Officer
FROM: Barbara Snyder, Director of Development Services
SUBJECT: **TIMELINE FOR APPROVAL OF SECONDARY SUITES REGULATIONS**

RECOMMENDATION

1. That, if information concerning secondary suites and the proposed regulations for Esquimalt are to be provided to the public at Buccaneer Days for information only [i.e. no written feedback from the public is requested], the original timeline shown below be adhered to; or
2. If there is the expectation that public input is to be gathered during Buccaneer Days or if any type of questionnaire or comment sheet is to be provided, that the original timeline be disregarded to allow time for those comments to be tabulated and brought back to Council prior to the bylaw receiving 1st and 2nd reading.

BACKGROUND

In the previous report to the Committee of the Whole, the following Timeline was proposed.

Introduction of proposed amending Bylaws to Committee of the Whole	May 11th
Draft Bylaws referred to Advisory Planning Commission	May 26th
Public Information Meeting	May 28th
Bylaw and Report outlining recommended changes to the amending Bylaws to Council for 1st and 2nd reading	June 15th
Public Hearing	July 6th or 13th*
Final Adoption	July 13th or after Summer Recess

* The Canada Day Holiday [July 1st] affects the advertising of the Public Hearing and may prevent it from being held on July 6th.

As the COTW has requested more opportunities to familiarize the public with the proposed regulations and receive community input, information will be made available to the public during Buccaneer Days [June 12th - 14th].

If there is the intention that some type of questionnaire or other form to capture public feedback be distributed at Buccaneer Days, there will not be time to process those comments and bring a report back to the June 15th Council meeting. This would mean

that 1st and 2nd reading of the amending bylaws could not occur until at least June 22nd [provided a Special Council meeting was held on that day] and the Public Hearing could not occur until after Council's summer recess.

Although many residents attend Buccaneer Days, and this is an opportunity to get information to the public, this is not the same as an Information Meeting or Open House where people come specifically to discuss the issue of Secondary Suites. Perhaps, if Council feels the proposed timeline does not provide for enough public information and input, an additional information evening could be held in June or July. As noted above, if the Buccaneer Days input is to be brought back to Council prior to the bylaws receiving 1st and 2nd reading, the bylaws will not be adopted until after the summer recess leaving additional time for another public meeting if Council chooses.

Respectfully submitted,

Barbara Snyder
Director of Development Services

Approved for Council's consideration:

Laurie Hurst, A/Chief Administrative Officer

Dated: _____



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

Municipal Hall, 1229 Esquimalt Road, Esquimalt, B.C., V9A 3P1
Telephone (250) 414-7100 Fax (250) 414-7111

STAFF REPORT

DATE: July 7, 2009 **REPORT NO.** DEV-09-046
TO: Laurie Hurst, Interim Chief Administrative Officer
FROM: Barbara Snyder, Director of Development Services
SUBJECT: "TEMPORARY" ACCESSORY BUILDINGS

FOR INFORMATION

Development Services would like to begin stricter enforcement of several issues that affect the appearance of our residential neighbourhoods, in particular the use of tent-like temporary accessory structures. As shown in the attached photos, these are often sited in contravention of the terms of Zoning Bylaw No. 2050 [see definitions and setback requirements below].

Although property owners claim these are only temporary structures, they are structures and therefore should meet the siting, height, and lot coverage requirements that apply to other accessory buildings.

Esquimalt Zoning Bylaw No. 2050 requires that Accessory Buildings in residential zones be sited as follows:

Front Setback:

No Accessory Building shall be located in front of the front face of the Principal Building.

Side Setback:

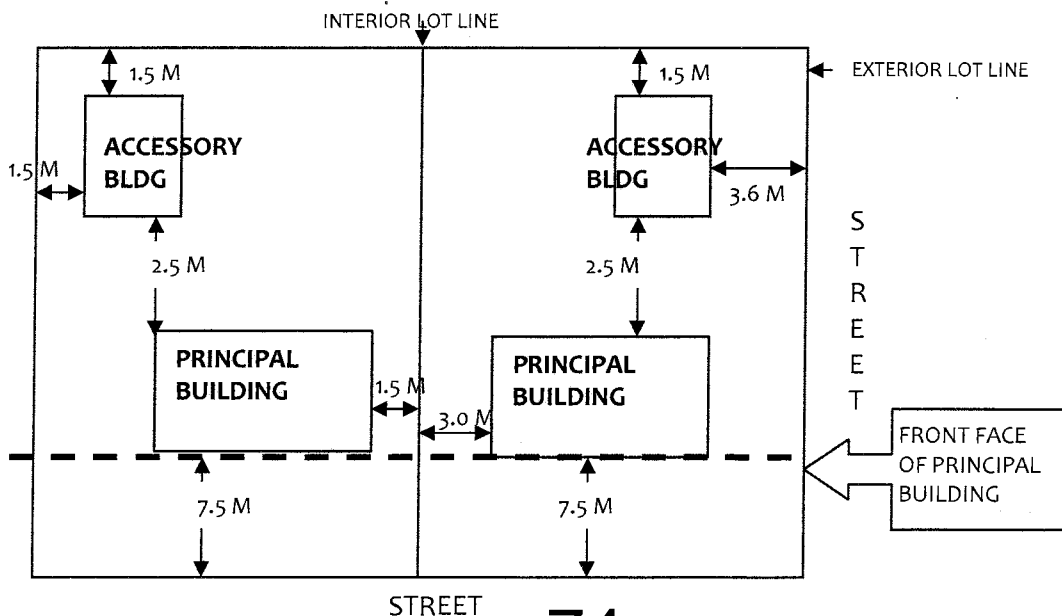
No Accessory Building shall be located within 1.5 metres [5 ft.] of an Interior Side Lot Line nor 3.6 metres [12. ft.] of an Exterior Side Lot Line.

Rear Setback:

No Accessory Building shall be located within 1.5 metres [5 ft.] of a Rear Lot Line.

Building Separation:

No Accessory Building shall be located within 2.5 metres [8 ft.] of a Principal Building:



An **Accessory Building** is defined as

“a Building or Structure customarily incidental to the Principal Building and Structures located on the Parcel and used by the occupant of the Principal Building on the site, including but not limited to Private Garage, garden/storage shed and greenhouse”.

A **Building** is defined as

“any Structure used or intended for supporting or sheltering any use”.

A **Structure** is defined as

“ anything that is erected or constructed that is attached to, supported by or sunk into land or water but does not include Landscaping, surfacing improvements, fences permitted within the Zone and retaining walls under 1.0 metres in Height.

The maximum lot coverage for an Accessory Building or Structure is 10% of the parcel area; many of these temporary structures exceed that percentage.

The maximum building height for an Accessory Building or Structure is 3.6 metres [12 ft.] and many temporary structures exceed that figure.

A Building Permit is required for any Building or Structure that exceeds 9.3 m² [100 square feet] in area.

These temporary structures are usually installed without a building permit and are often placed within the front yard setback to provide a parking spot for boats, recreation vehicles or second cars. As these structures age, the canvas covers become faded and torn further detracting from their appearance. As these structures are installed without a building permit, there is no inspection of the footings or structural stability.

If someone were to apply for a building permit for a structure that exceeded the permitted lot coverage and allowable height and that was sited in contravention of the zoning bylaw it would be refused yet the temporary structures which are far more detrimental to the appearance of the community seem to have avoided bylaw enforcement until now.

The availability of a second bylaw enforcement officer, even though he is only employed part-time, allows us to expand enforcement activity beyond issuing parking tickets. Prior to initiating this activity, staff would like to make Council aware of the proposed increase in bylaw enforcement with regard to temporary accessory structures as it will likely result in calls to Council members.

Property owners would still have the opportunity to request a Development Variance Permit for the siting of a temporary accessory building if it was impossible to locate the structure appropriately or if it exceeded the maximum allowable height or lot coverage.

Respectfully submitted,



Barbara Snyder
Director of Development Services

Approved for Council's consideration:



Laurie Hurst, I/CAO

Dated: July 9/09

REPORT NO. DEV. 09. 046

