

DATE OF MEETING October 4, 2021

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BUSINESS LICENSING

**SUBJECT BUSINESS LICENCE BYLAW 2021 NO. 7318 AND FEES AND
CHARGES AMENDMENT BYLAW 2021 NO. 7041.03**

OVERVIEW

Purpose of Report

To introduce “Business Licence Bylaw 2021 No. 7318” and “Fees and Charges Amendment Bylaw 2021 No. 7041.03” as recommended by the Governance and Priorities Committee at its meeting on 2021-JUL-12.

Recommendation

That

- “Business Licence Bylaw 2021 No. 7318” (A bylaw to regulate the operation of businesses within the city of Nanaimo) pass first reading;
- “Business Licence Bylaw 2021 No. 7318” pass second reading;
- “Business Licence Bylaw 2021 No. 7318” pass third reading;
- “Fees and Charges Amendment Bylaw 2021 No. 7041.03” (To add business licence fees) pass first reading;
- “Fees and Charges Amendment Bylaw 2021 No. 7041.03” pass second reading; and
- “Fees and Charges Amendment Bylaw 2021 No. 7041.03” pass third reading.

BACKGROUND

At its meeting on 2021-JUL-12, the Governance and Priorities Committee (the “Committee”) was presented with a report outlining proposed amendments to the “Business Licence Bylaw 1998 No. 5351” that resulted in the following motion:

“It was moved and seconded that the Governance and Priorities Committee recommend that Council direct Staff to proceed with finalizing the “Business Licence Bylaw 2021 No. 7318”, and that once finalized, return to a future Regular Council meeting for first, second and third readings of the “Business Licence Bylaw 2021 No. 7318”, along with amendments to the “Fees and Charges Bylaw 2007 No. 7041” and the “Bylaw Notice Enforcement Bylaw 2012 No. 7159”. The motion carried unanimously.”

“It was moved and seconded that the Governance and Priorities Committee recommend that Council change the liquor primary business licence fee from \$1100 to \$165 per year. The motion carried unanimously.”

DISCUSSION

The “Business Licence Bylaw 1998 No. 5351” (“Bylaw 5351”) was adopted in 1998, and although amendments have been incorporated into the bylaw over the years to accommodate changes, the bylaw is in need of an update to accurately reflect current business trends and to ensure that regulatory requirements are addressed.

For Council’s reference, a summary of the report presented to the Governance and Priorities Committee on 2021-JUL-12 is as follows:

Definitions

Definitions within the proposed “Business Licence Bylaw 2021 No. 7318” (the “Bylaw”) have been updated in order to capture the current business landscape, and as a result, definitions have either been removed, added, amended, or re-worded where the definition was considered confusing or subject to misinterpretation.

Bylaw Updates

The following sections have been added to the Bylaw:

Inclusion of Non-Profit Sector

By including the non-profit sector in the licensing process, the City has the ability to accumulate and utilize the data provided with regard to number of people employed and which sector of the community is being serviced, such as health, education, social, housing, sports, and recreation.

As part of the business licence application review, referrals are typically forwarded to Current Planning, Building Inspections, Fire Rescue and other external agencies (depending on the business model) to ensure that the land use, zoning, occupancy, and building safety requirements have been met. By requiring non-profits to obtain a business licence, the space in which they conduct business can be reviewed and/or inspected to ensure building safety and compliance to regulations.

In order to provide further clarification regarding when a non-profit business licence is not required, the bylaw has been updated with the following:

“Despite any other provision in this Bylaw, a business licence is not required for a Non-Profit if the business activity is carried on 12 or fewer days in a calendar year and all profit is dedicated to further the purposes of the association.”

The intention of adding this section to the bylaw is to exempt registered non-profits operating as community associations or the like from having to obtain a business licence.

Commercial Leased Properties

Although it is current practice to require a separate business licence for each commercial leased building, it has not always been the case. Adding it to the Bylaw ensures that a consistent and equitable administrative practice continues.

Business Licence Application

This section has been added to clearly outline the information required to be disclosed when making application for a business licence.

Prorating of Fees

Typically, business licence fees are prorated on a quarterly basis for the first year of business only. Adding this section clarifies that businesses that have closed and re-opened are not eligible for the pro-rated business licence fee. This is more relevant to home-based businesses that close for periods of time, normally for reasons of a personal or economic nature.

Business Licence Renewals

This section has been added to provide information on the requirement to renew the business licence and also to provide the ability for Staff to terminate a licence in the event the licence is not renewed by the December 31 deadline. Currently, there is no provision in Bylaw 5351 to be able to close a licence, despite repeated attempts to obtain outstanding fees, or to locate a moved business. Having open accounts with outstanding fees reflects inaccurate data and statistics regarding the number of active accounts and licensing fee receivables.

Regulations

Regulations for specific businesses have been separated from the body of the Bylaw and are now included as a separate schedule. The benefit of separating the regulations will provide for an easier-to-read, concise, and streamlined bylaw and will allow any future updates regarding additions, deletions, or changes to regulations to be done more easily and without affecting the body of the Bylaw.

As per the Committee's discussion, the regulation pertaining to adult stores has been changed from restricting entry to individuals who have attained the age of majority. |

Fees and Fines

In accordance with the Committee's directive, amendments have been incorporated into the "Fees and Charges Bylaw 1988 No. 3277" to reflect the reduced business licence fee for liquor-primary businesses from \$1,100 to \$165.

In addition, a non-profit business licence fee of \$50 is being proposed so that it coincides with the \$50 child care fee. The only other fee lower than \$50 is the \$41.25 special event business licence that covers an event operating for five or fewer days.

Fines associated with the Business Licence Bylaw are not being addressed at this time; however, in keeping with current practices, the fine schedule is being removed from the Business Licence Bylaw and added to the Bylaw Notice Enforcement Bylaw under a separate report on tonight's agenda.

NEXT STEPS

First, Second, and Third Readings

“Business Licence Bylaw 2021 No. 7318” is attached to this report for Council’s review and consideration for the first three readings (Attachment A).

“Fees and Charges Amendment Bylaw 2021 No. 7041.03” is attached to this report for Council’s review and consideration for the first three readings (Attachment B).

Notification Process

Should Council pass the first three readings as recommended, and before “Business Licence Bylaw 2021 No. 7318” returns to Council for adoption, notification of the impending Bylaw adoption will be advertised in the local newspaper.

If adopted, further notification of the changes will be provided to all business licence account holders on the annual renewal invoice to be mailed/emailed in November.

In addition, Staff will work with the Communications Section to develop messaging to the general public, including a news release and a website update.

Effective Date

Should Council adopt the Business Licence Bylaw, it is Staff’s recommendation that the Bylaw take effect on 2022-JAN-01 in order to provide time for Staff to process applications received from non-profit organizations and to effectively notify businesses of the new requirements.

OPTIONS

1. That
 1. “Business Licence Bylaw 2021 No. 7318” (A bylaw to regulate the operation of businesses within the city of Nanaimo) pass first reading;
 2. “Business Licence Bylaw 2021 No. 7318” pass second reading;
 3. “Business Licence Bylaw 2021 No. 7318” pass third reading;
 4. “Fees and Charges Amendment Bylaw 2021 No. 7041.03” (To add business licence fees) pass first reading;
 5. “Fees and Charges Amendment Bylaw 2021 No. 7041.03” pass second reading;
 6. “Fees and Charges Amendment Bylaw 2021 No. 7041.03” pass third reading; and

The recommendation is based on the motion provided by the Governance and Priorities Committee on 2021-JUL-12.

2. Council provide alternative direction.

SUMMARY POINTS

- The current “Business Licence Bylaw 1998 No. 5351” was adopted in 1998 and is in need of updating.
- A Staff report outlining proposed amendments was presented to the Governance and Priorities Committee on 2021-JUL-12.
- The main changes to the Business Licence Bylaw include: updated definitions, reformatted sections, and revised regulations to better reflect the current business landscape.
- The Bylaw introduces the requirement for non-profit organizations to obtain a business licence.
- Business licence fees will not be included in the new Bylaw and will instead be incorporated into the Fees and Charges Bylaw.
- With the exception of reducing the business licence fee for liquor-primary businesses from \$1,100 to \$165 and introducing a \$50 fee for non-profits, no further changes to licensing fees are proposed.
- Fines associated with business licensing will not be included in the new Bylaw and will instead be incorporated into the “Bylaw Notice Enforcement Bylaw 2012 No. 7159”, which is being presented in a separate report.
- The “Business Licence Bylaw 2021 No. 7318” and the “Fees and Charges Amendment Bylaw 2021 No. 7041.03” are being presented for the first, second and third readings.
- The recommended effective date of new bylaw is 2022-JAN-01.

ATTACHMENTS:

ATTACHMENT A: Staff Report – Proposed Amendments to Business Licence Bylaw
“Business Licence Bylaw 2021 No. 7318”
“Fees and Charges Amendment Bylaw 2021 No. 7041.03” |

Submitted by:

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