

City of Surrey
PLANNING & DEVELOPMENT REPORT

File: 7918-0120-00

Planning Report Date: September 17, 2018

PROPOSAL:

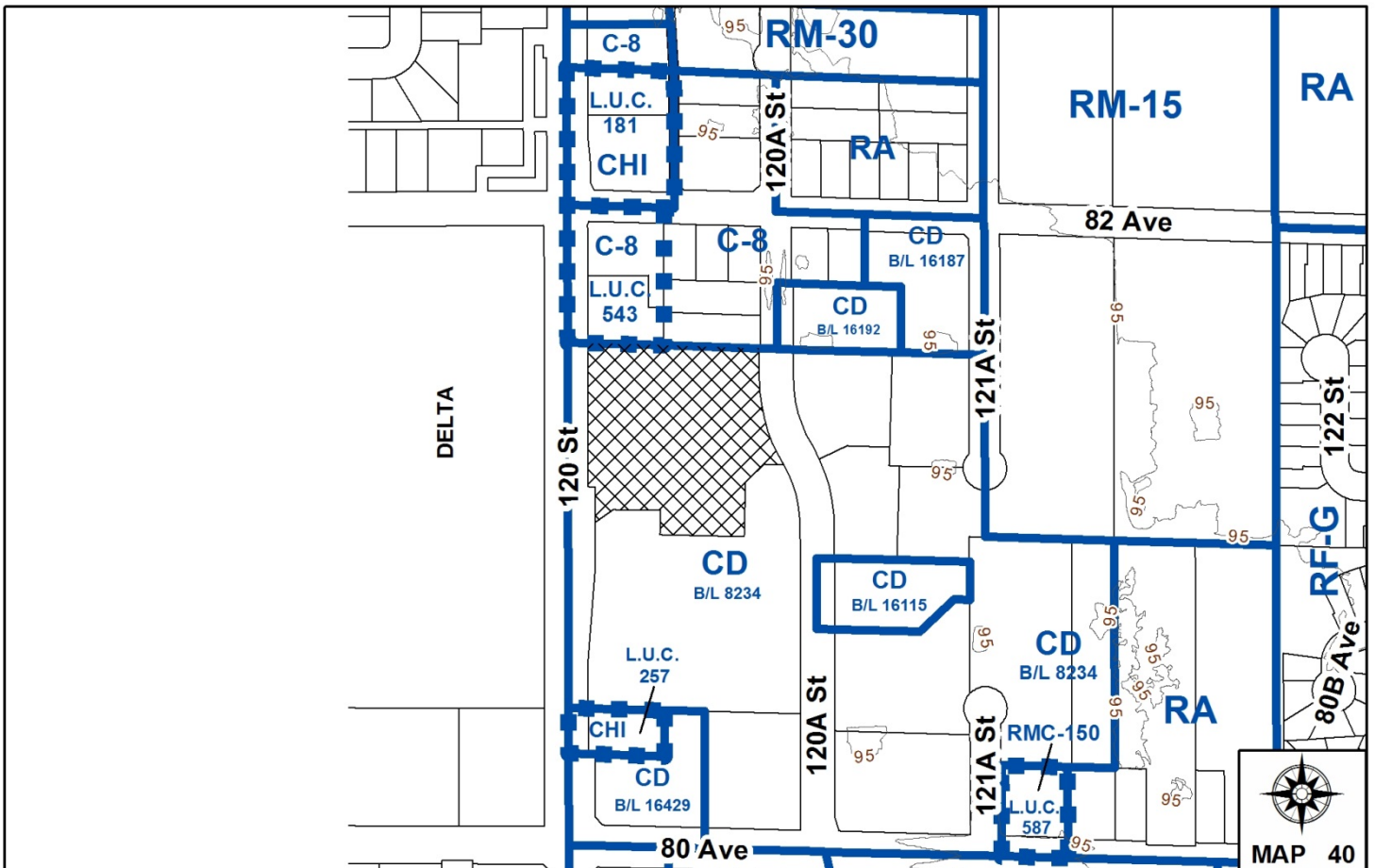
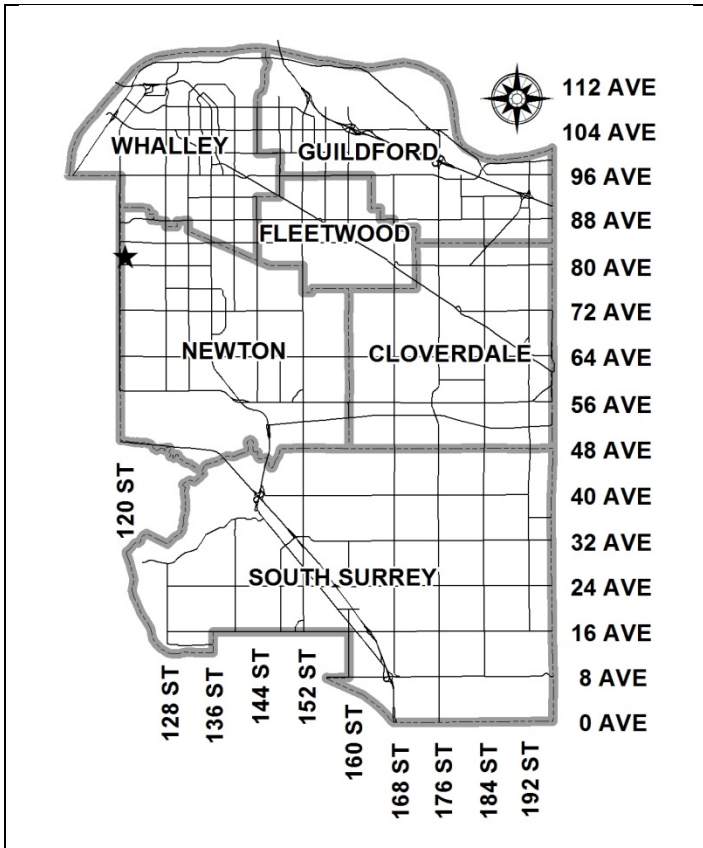
- **Liquor License Amendment**

to allow patron participation entertainment (karaoke) for an existing food primary licensed establishment.

LOCATION: 8140 - 120 Street

ZONING: CD (By-law No. 8234)

OCP DESIGNATION: Commercial



RECOMMENDATION SUMMARY

- Approval of the proposed liquor license amendment to proceed to Public Notification.

DEVIATION FROM PLANS, POLICIES OR REGULATIONS

- None.

RATIONALE OF RECOMMENDATION

- The business has an existing Food Primary License which allows them to operate from 9:00 am to midnight, Monday to Sunday.
- The proposal complies with the Liquor Control & Licensing Branch requirement for hours of patron participation entertainment to end at midnight.
- No changes are proposed to the operation of the establishment. The proposed addition of patron participation entertainment is not expected to negatively impact the neighbourhood.
- In accordance with City Policy No. M-25, as a condition of their business license, food primary licenses with patron participation endorsement are required to enter into a Good Neighbour Agreement, and therefore any neighbourhood concerns can be addressed.
- The RCMP, the Fire Department and By-Laws and Licensing Division have no concerns with the proposal.

RECOMMENDATION

1. The Planning & Development Department recommends that Council approve the proposed amendment to the applicant's existing food primary liquor license for the addition of patron participation entertainment to proceed to Public Notification.
2. Council instruct staff to resolve the following issue prior to final approval:
 - (a) Execution of a Good Neighbour Agreement (Appendix III) with the City.

REFERRALS

Engineering: The Engineering Department has no objection to the project.

Surrey RCMP: No concerns.

Surrey Fire Department: No concerns.

Surrey By-laws & Licensing Services: No concerns.

SITE CHARACTERISTICS

Existing Land Use: Multi-tenant commercial retail building

Adjacent Area:

Direction	Existing Use	OCP Designation	Existing Zone
North:	Multi-tenant commercial retail building and a vacant lot	Commercial	C-8
East (Across 120A Street):	4-storey apartment building	Multiple Residential	CD (By-law No. 8234)
South	Multi-tenant commercial retail buildings	Commercial	CD (By-law No. 8234)
West (Across 120 Street):	Multi-tenant commercial retail buildings	N/A City of Delta	N/A City of Delta

Background and proposal

- The subject site is located at 8140 – 120 Street and is designated Commercial in the Official Community Plan (OCP).
- The property contains a multi-tenant commercial retail building. The subject development application pertains to an existing restaurant, located in Unit 106, only.
- Unit 106 has a Food Primary License (#307233) which allows them to operate from 9:00 am to midnight, Monday to Sunday. The restaurant's current hours of operation are 11 am to 9:00 pm Monday-Sunday. The license is for the sale and consumption of all types of liquor, with a primary focus on service of food.
- The total licensed capacity of the Food Primary License is 236 patrons. No changes are proposed to the capacity. There are no patios or other outdoor spaces associated with the restaurant.
- Patron Participation Entertainment, as defined by the Guide for Liquor Licensees in British Columbia, refers to entertainment that patrons may participate in, such as karaoke or "dine and dance".
- The current application proposes the addition of patron-participation entertainment, in the form of singing to live and pre-recorded music (karaoke) on Fridays and Saturdays from 8:00 pm until midnight.

Applicant's Rationale

- The addition of karaoke will provide an opportunity for additional revenue for the restaurant.
- The nature of the establishment is such that no additional noise impact is expected on the community as a result of the patron participation as there are no outdoor spaces or patios associated with the restaurant. All of the noise generated from the karaoke will be internal to the building.
- The establishment will not operate contrary to its primary purpose as a food primary licensed establishment.
- The patron participation will end at midnight, as stated by the Liquor Control and Licensing Branch (LCLB).
- No significant changes are proposed to the operation of the establishment. Music is already being played, and this application will formally allow patrons to dance and sing to the music at private and pre-booked events.

Liquor License Amendment

- The Liquor Control and Licensing Branch (LCLB) have established procedures for Food Primary liquor licensed establishments seeking to provide entertainment in addition to food and beverage service.

- The LCLB distinguishes between two types of entertainment; patron non-participation entertainment, including DJ's, musicians, small bands etc., and patron participation entertainment, including karaoke and dancing etc.
- Both patron non-participation entertainment and patron participation entertainment require LCLB approval of an entertainment endorsement to the Food Primary liquor license.
- Patron non-participation entertainment can be approved by the LCLB without local government endorsement. Patron participation entertainment, on the other hand, must be endorsed by the local government.
- The LCLB also requires that Council comment on how the site satisfies a specified list of criteria to ensure that adequate consideration has been given to the application by the local government. The analysis of the three criteria for this site is provided as follows:

(a) Potential for Noise

- The subject site is surrounded by multi-tenant commercial retail buildings to the north and south. To the east of the subject site, across 120A Street is a 4-storey apartment building. As there are no outdoor spaces or patios associated with the restaurant, all of the noise generated from the karaoke will be internal to the building.
- The applicant has agreed to enter into a Good Neighbour Agreement with the City that will address any noise concerns from the establishment or from the patrons entering and exiting the establishment.
- Based on the above, it is not anticipated that the neighbouring properties will be adversely impacted by any noise resulting from the proposed addition of patron participation entertainment.

(b) Impact on the Community

- The RCMP and Surrey By-laws and Licensing Services have no concerns with the proposed liquor license amendment.
- The addition of patron participation in the form of singing is not expected to adversely impact the neighbouring properties.

(c) Operation of the Establishment

- The main purpose of the restaurant (food primary license) is to provide food service. The addition of patron participation entertainment in the form of singing is not expected to change the overall market focus, and therefore, will not result in the establishment being operated in a manner that is contrary to its primary purpose.

PRE-NOTIFICATION

Pre-notification letters were sent on May 8, 2018. A Development Proposal Sign was also installed on the subject site. Staff received six (6) emails and two (2) phone calls from adjacent residents expressing concerns. Staff comments are provided below in italics.

Several area residents on the east side of 120A Street are concerned with:

1. The existing level of noise generated from a banquet hall located to the south of the subject site; and
2. Existing undesirable activities taking place on the subject site, but not related to Unit 106.

These residents do not support the addition of patron participation for Unit 106 as they are concerned that this will increase the level of noise and undesirable activity in the area.

(As there are no outdoor spaces or patios associated with the restaurant, all of the noise generated from the karaoke will be internal to the building.

The applicant has agreed to enter into a Good Neighbour Agreement with the City that will address any noise concerns from the establishment or from the patrons entering and exiting the establishment.

In addition, under the Good Neighbour Agreement, the Owner will make commercially reasonable efforts to scrutinize patrons as they enter the building to ensure that no items of contraband, including weapons and controlled substances, are brought onto the premises.)

CONCLUSION

- As no significant changes are proposed to the operation of the establishment, the proposed addition of patron participation entertainment is not expected to negatively impact the neighbourhood.
- The applicant has agreed to enter into a Good Neighbour Agreement with the City that will address any neighbourhood concerns.
- Based on the above, staff is of the view that there is sufficient merit to the proposal, and accordingly, recommends that Council allow the application to proceed to Public Notification.

INFORMATION ATTACHED TO THIS REPORT

The following information is attached to this Report:

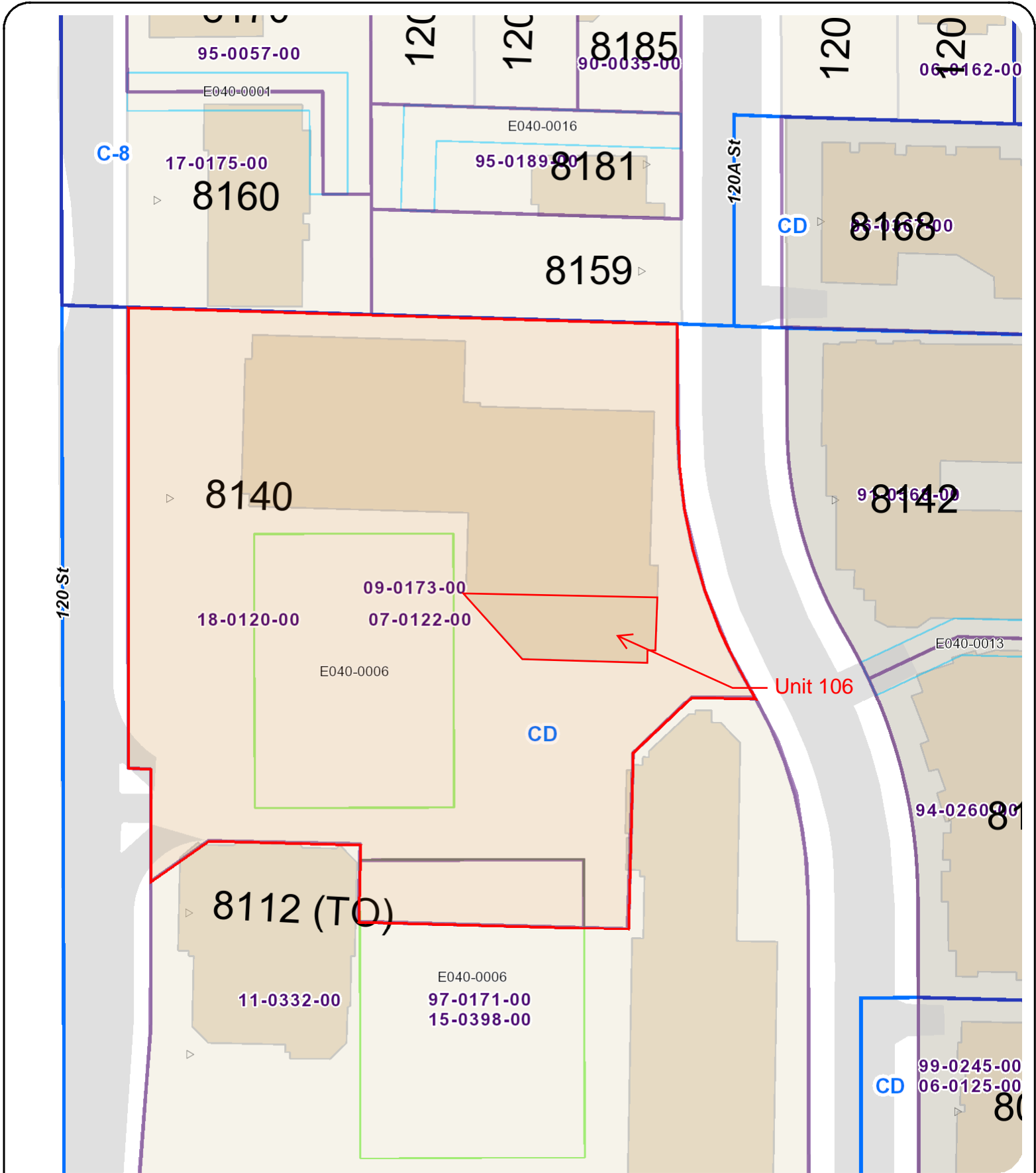
- Appendix I. Lot Owners, Action Summary (Confidential) and Project Data Sheets
- Appendix II. Location Map
- Appendix III. Good Neighbour Agreement

original signed by Ron Hintsche

Jean Lamontagne
General Manager
Planning and Development

TH/cm

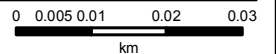
APPENDIX I HAS BEEN
REMOVED AS IT CONTAINS
CONFIDENTIAL INFORMATION



Enter Map Description

Scale: 1:1,005

The data provided is compiled from various sources and is NOT warranted as to its accuracy or sufficiency by the City of Surrey. This information is provided for information and convenience purposes only. Lot sizes, legal descriptions and encumbrances must be confirmed at the Land Title Office. Use and distribution of this map is subject to all copyright and disclaimer notices at cosmos.surrey.ca





CITY OF SURREY
GOOD NEIGHBOUR AGREEMENT

BETWEEN:

SCOTT ROAD CENTRE INC.
(the "Owner")

AND:

CITY OF SURREY
(the "City")

WHEREAS the City and the Owner of the restaurant located at Unit 106, 8140 – 120 Street (the "Licensed Establishment") (collectively the "Parties"), recognize that all food primary liquor license establishments with patron participation have a civic responsibility, beyond the requirements of the *Liquor Control and Licensing Act*, to control the conduct of their patrons;

AND WHEREAS the Owner wishes to demonstrate to the citizens of Surrey its desire to be a responsible corporate citizen;

AND WHEREAS the Parties wish to promote Surrey as a vibrant, safe and attractive community for the enjoyment of everyone, including residents, visitors, businesses and their workers.

NOW THEREFORE the Owner agrees with the City to enter into this Good Neighbour Agreement, the terms and conditions of which follow:

1. **Noise and Disorder**

- (a) The Owner acknowledges its responsibility not to violate Surrey Noise Control Bylaw, 1982, No. 7044, as amended;
- (b) The Owner shall train and assign staff to monitor the activity of patrons in areas outside of the Licensed Establishment to promote the orderly dispersal of patrons, and to discourage patrons from engaging in behaviour that may disturb the peace, quiet and enjoyment of the neighbourhood;
- (c) The Owner undertakes to take commercially reasonable measures to ensure disturbances are prevented. Examples of reasonable measures include installing adequate lighting outside the Licensed Establishment and in the parking lot, supervising parking areas, making structural changes to allow indoor line-up areas, and posting signs at the exit doors asking the patrons not to disturb the neighbours;

- (d) In those instances where patrons are lining up on the public sidewalks the Owner shall ensure that the patrons are lined up in an orderly fashion allowing for the free flow of pedestrians along the sidewalk, not blocking laneways or driveways and not spilling onto the roadway; and
- (e) In cases where the presence of employees does not facilitate an orderly dispersal of patrons, the Owner shall contact the RCMP to request assistance in dealing with any persons or crowds.

2. **Criminal Activity**

- (a) The Owner shall not tolerate any criminal activity within the Licensed Establishment; and
- (b) The Owner shall make commercially reasonable effort to scrutinize patrons as they enter the building to ensure that no items of contraband, including weapons and controlled substances, are brought onto the premises.

3. **Minors**

- (a) The Owner shall not serve alcohol to any person under the age of 19 years of age; and
- (b) The Owner shall check two pieces of identification when verifying that a customer is at least 19 years of age, one piece of which must be picture identification and may be a driver's licence, a government identification card or a passport.

4. **Sale and Consumption of Alcohol**

- (a) While it is recognized that there may be occasional price reductions or promotions for specific alcoholic beverages, the Owner shall offer no deep discounts (i.e., "cheap drinks") or across-the-board discounts;
- (b) When offering price reductions and promotions, the Owner shall be particularly mindful of its legal obligation to refuse service to persons who may, based on appearance or amount of alcohol consumed, be intoxicated; and
- (c) The Owner shall not allow patrons to carry or consume open beverages in areas that are not licensed for such purposes, including areas outside of the Licensed Establishment.

5. **Hours of Operation and Liquor Service**

- (a) The Owner shall not allow the service of alcohol to extend beyond 9:00pm on Sunday to Thursday and 12:00 am on Friday and Saturday and the service of liquor must at all times be done in accordance with the terms and conditions of the Liquor Control and Licensing Branch;
- (b) The Owner shall be permitted an extra 30 minutes to clear the Licensed Establishment at the time of closing in order to facilitate the orderly dispersal of patrons; and
- (c) The Owner shall not allow patrons to enter the Licensed Establishment after liquor service ceases under any circumstances.

6. **On-Duty Employees**

- (a) The Owner shall ensure that each on-duty employee of the Licensed Establishment is clearly identified; and
- (b) The Owner shall ensure that the on-duty manager of the Licensed Establishment maintains a list showing the full identification of each on-duty employee, and shall make the list available to the Officer In Charge of the RCMP on request.

7. **Cleanliness**

- (a) The Owner shall assign staff to inspect the outside of the Licensed Establishment to ensure that there is no litter, garbage, broken glass or other foreign objects; and
- (b) The Owner shall undertake to remove, as soon as is practical, any graffiti from the building's exterior.

8. **Safety**

- (a) The Owner shall ensure the occupant load sign is visibly posted near the entrance to ensure overcrowding does not take place.

9. **Other Agencies and Programs**

- (a) The Owner agrees to work with the City and its departments, including the RCMP and Fire Department, to resolve any concerns that arise with respect to the operation of the Licensed Establishment;

- (b) The Owner agrees to attend a formal meeting, as and when required by the City, with the City and the RCMP to discuss issues and concerns;
- (c) The Owner shall demonstrate complete support for the RCMP and its members;
- (d) When incidents occur which require RCMP involvement, the Owner shall ensure that all personnel of the Licensed Establishment cooperate fully with RCMP members and do not impede or obstruct members in performing their duties;
- (e) The Owner shall accommodate programs which aim to eliminate occurrences of drinking and driving;
- (f) The Owner shall make a free telephone available to patrons for the purpose of contacting a taxi or arranging other transportation from the Licensed Establishment; and
- (g) The Owner shall provide non-alcoholic beverages at prices which are below those set for alcoholic beverages.

10. **Amendment and Transferability**

- (a) Any proposed changes to the terms of this Good Neighbour Agreement shall be discussed and resolved among the Parties; and
- (b) The Owner shall make the continuation of this Good Neighbour Agreement a condition of any sale, lease or transfer of all or part of the Licensed Establishment.

11. **Enforcement**

- (a) Any failure on the part of the Owner to comply with the terms outlined herein may be brought to the attention of City Council and Council may suspend the owner's business license for the Licensed Establishment, prohibit "patron participation" otherwise permitted under the liquor licence, or impose additional terms and conditions; and
- (b) Nothing contained or implied in this Good Neighbour Agreement shall prejudice or affect the City's rights and authorities in the exercise of its functions pursuant to the *Community Charter* and *Local Government Act*, as amended, and the rights and powers of the City and the RCMP under provincial and federal statutes and regulations, and City bylaws.

Executed the _____ day of _____, 20_____ in Surrey, British Columbia,

Owner)

)

_____)

Signature)

)

_____)

Name (*please print*))

)

_____)

City of Surrey)

)

_____)

Mayor Linda Hepner)

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