

Committee of the Whole (2) Report

DATE: Tuesday, April 16, 2024

WARD(S): ALL

TITLE: SEASONAL OUTDOOR PATIO LICENCE

FROM:

Gus Michaels, Deputy City Manager, Community Services

ACTION: DECISION

Purpose

To seek approval from Council to create a licensing endorsement to permit licensed eating establishments and banquet halls to erect and operate seasonal outdoor patios from April 1 to November 1, in support of the local hospitality industry.

Report Highlights

- Following the emergency declaration in response to the COVID-19 Pandemic, on June 29, 2020, Council approved a regulatory framework to allow eating establishments and banquet halls to erect temporary outdoor patios.
- As the pandemic and accompanying emergency measures continued to impact the local hospitality industry, and due to the successful implementation of the relief initiative, Council approved multiple extensions to permit temporary outdoor patios until January 1, 2023.
- Because of the success of the initial temporary outdoor patio program, and the current economic climate, staff are recommending that a permanent program be implemented to allow eating establishments and banquet halls to have seasonal outdoor patios from April 1 to November 1.

Recommendations

1. THAT the Business Licensing By-law 122-2022, as amended, be further amended, as generally set out in Attachment 1 to this report, and in a form satisfactory to Legal Services, to create a licensing endorsement for seasonal outdoor patios;
2. THAT Noise Control By-law 121-2021, as amended, be further amended, as generally set out in the Attachment 2 to this report, and in a form satisfactory to

- Legal Services, to permit sound from a sound reproduction device on seasonal outdoor patios, and to create parameters for prohibitions for non-compliance; and
3. THAT the Fees and Charges By-law 224-2023, as amended, be further amended, as generally set out in the Attachment 3 to this report, and in a form satisfactory to Legal Services, to create a seasonal outdoor patio licence endorsement fee.

Background

To support the local hospitality industry during the COVID-19 pandemic, Council directed staff to make required by-law amendments and implement the necessary processes to permit licensed eating establishments and banquet halls to erect temporary outdoor patios, and expand existing patio areas, to create additional outdoor seating capacity. Although the COVID-19 state of emergency ended in April 2022, due to the success of the temporary outdoor patio program, the program officially did not end until January 1, 2023, due to multiple extensions of the program by Council. In total, 168 temporary outdoor patio permits were issued, and there were no significant health, safety, or compliance-related issues pertaining to temporary outdoor patios reported to the City.

Municipal Comparisons

Owing to the success of pandemic-related temporary patio programs, and the relatively low-risk nature of outdoor patios, municipalities across the GTA and Ontario have progressed their temporary patio permits into seasonal outdoor patio programs. The regulations differ in every municipality; however, each has developed specific requirements that must be adhered to. Table 1 provides a summary of the Ontario municipalities reviewed, along with a comparison of their temporary patio provisions.

Municipality	Seasonal or Year-round	Location	Permit/Licence Requirement
Toronto	Year-round	Public and private property	No permit required for patios on private property.
Burlington	Seasonal	Public and private property	Municipal approval required for all patio applications
Mississauga	Year-round	Public and private property	No permit required for patios on private property.
Newmarket	Varies by type	Public and private property	Municipal approval required for all patio applications
Ajax	Seasonal	Public and private property	Municipal approval required for all patio applications

Brampton	Seasonal	Public and private property	Municipal approval required for all patio applications
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Previous Reports/Authority

Council May 27, 2020, Item 30, [Committee of the Whole, Report No. 20](#)

Council June 29, 2020, Item 1, [Committee of the Whole, Report No. 30](#)

Council October 21, 2020, [Addendum Item 2](#)

Council September 27, 2021, Item 21 [Committee of the Whole, Report No. 39](#)

[City of Vaughan Temporary Outdoor Patio By-law, 096-2020 \(repealed\)](#)

Analysis and Options

Public Survey

In addition to the cross-jurisdictional scan and consultation with other municipalities, staff conducted a public survey to better understand impacts, both positive and negative, the temporary outdoor patio program had on the hospitality industry and the public, and to assess the level of interest in a permanent outdoor patio program.

In conjunction with Communications, Marketing and Engagement, By-law and Compliance, Licensing and Permit Services undertook an online survey between February 15 and March 7, 2024, which was promoted through an extensive communications outreach and through Access Vaughan. The survey received 504 responses. A summary of the findings follows, with a complete set of results provided in Attachment 1 to this report.

Most respondents (481) identified themselves as Vaughan residents. 21 identified as owners/operators of restaurants or banquet halls in Vaughan, and 23 respondents identified as owning other types of businesses in the City. Half of the survey respondents indicated that they are customers of restaurants and banquet halls located in Vaughan, and the majority of respondents indicated that they had visited temporary outdoor patios in Vaughan during the previous temporary program. The idea of seasonal outdoor patios in the City gained overall support (419 positive responses). Most respondents representing restaurant and business owners who had participated in the temporary outdoor patio program indicated they had a positive experience, noting extra revenue and additional employment opportunities as positive outcomes. Few concerns were noted by survey respondents, but included proper waste management, adequate safety measures, accessibility, smoking and noise concerns, all of which will be addressed through various by-laws. Overall, the idea of seasonal outdoor patios was deemed attractive to the majority of respondents, who indicated that this initiative would bring vibrance to the City and support existing businesses.

Proposed Regulations

Staff took a measured approach when developing the regulations for seasonal outdoor patios to balance public safety and nuisance control while providing establishment owners with flexibility to establish additional dining areas with maximum positive outcomes for their businesses and patrons. Most of the proposed regulations mirror those of the previously approved temporary outdoor patios, with additional items added to reflect the permanence of the seasonal patio endorsement. The regulations below summarize the proposed by-law requirements.

1. Licence Requirement

Eating establishments and banquet halls must have a valid City of Vaughan business licence in good standing to qualify for a seasonal outdoor patio. The seasonal outdoor patio permission will be granted by way of an endorsement to the business licence. Endorsements must be renewed every year to ensure ongoing compliance. An endorsement fee of \$200 will cover administration, inspection, and compliance-related costs.

2. Location

Seasonal outdoor patios will only be permitted on private property directly adjacent to the eating establishment or banquet hall it was established to serve. Where the eating establishment or banquet hall is the only use on the property, the operator has discretion as to the location of the seasonal outdoor patio, so long as it abuts the building and is approved by the property owner. Where the eating establishment is located in a multi-unit building, the seasonal outdoor patio may occupy the parking spaces directly adjacent to an entrance leading to the interior of the eating establishment. If there is no sidewalk, the seasonal outdoor patio must abut the building.

To ensure the safety of staff and patrons, setbacks from fire hydrants, fire routes, and accessible parking spaces will be required. Additionally, seasonal outdoor patios may not be constructed in an area within 9 metres of an intersection within a parking lot and may not obstruct or encroach upon sidewalks. The Chief Licensing Officer retains the authority to refuse an endorsement in the instance that he or she is of the opinion that the proposed seasonal outdoor patio poses a risk to public safety or is likely to create a nuisance for neighbours.

If the banquet hall or eating establishment owner does not also own the property, they must obtain permission to erect the seasonal outdoor patio from the property owner or their designate. Further, no property owner or manager shall permit the establishment, existence, or operation of a Seasonal Outdoor Patio that is not in compliance with the provisions of the City's Licensing by-law.

3. Patio Features

Seasonal outdoor patios must be enclosed by a temporary fence of not less than 1 metre in height and of reasonable structural integrity, so as to effectively cordon off the area.

Awnings, tents and umbrellas are permitted in or over seasonal outdoor patios, so long as they are erected in manner to be in compliance with applicable legislation, by-laws or regulations, including but not limited to *Accessibility for Ontarians with Disabilities Act, 2005*, *Building Code Act, 1992* and *O. Reg. 213/07: Fire Code*, and are constructed with fire retardant materials.

An operator is permitted to construct a platform to form a temporary flooring for the seasonal outdoor patio, so long as the platform does not exceed the height of the adjacent sidewalk. Where required, ramps must be installed to ensure accessibility.

4. Compliance with Other Legislation

Seasonal outdoor patios must comply with all relevant legislation, including public health requirements, requirements of Vaughan Fire and Rescue Services, AODA Standards and AGCO regulations. Seasonal patios must also remain in compliance with all other City by-laws, including the City's zoning by-law.

5. Noise and Nuisance Control

Seasonal outdoor patios will be permitted to have amplified or acoustic music that complies with the provisions of the Noise Control By-law. Such provisions permit for music that is maintained at a level that allows for normal conversation. Music or other noise that exceeds this threshold shall continue to be only permitted under a Special Event Permit.

6. Permissions

Where the eating establishment or banquet hall owner is not the property owner, permission for erection and operation of the seasonal outdoor patio must be obtained in writing. In the case of multi-unit properties with more than one eating establishment and/or banquet hall, the property owner will have discretion as to how many seasonal outdoor patios are permitted on the property and which units are permitted to have patios, in alignment with the requirements of the by-law.

7. Drainage and Stormwater

Seasonal outdoor patios must be constructed in a manner so as not to obstruct the established flow of stormwater on the property, or to obstruct proper drainage.

Financial Impact

An annual licence fee of \$200.00, expected to generate approximately \$30,000 annually, will be charged to offset the administrative costs of processing applications and enforcement costs for inspections, and to ensure seasonal outdoor patios are established in accordance with the requirements of the by-law.

Operational Impact

The implementation of the seasonal outdoor patio endorsement is not anticipated to have an operational impact that requires additional resources.

Broader Regional Impacts/Considerations

The recommendations in this report do not have a direct impact on other municipalities, the Region or any of its agencies, or other regulatory stakeholders.

Conclusion

The proposed development of an ongoing seasonal outdoor patio endorsement aligns with the City's strategic priority of Economic Prosperity and Job Creation by enabling businesses to have seasonal expanded seating and offering a new dining experience for patrons. Upon receiving a decision of Council, By-law and Compliance, Licensing and Permit Services staff will work directly with Communications, Marketing and Engagement to ensure the timely release of any related communications related to this new endorsement.

For more information, please contact: Susan Kelly, Director and Chief Licensing Officer, By-law and Compliance, Licensing and Permit Services, ext. 8952.

Attachments

1. Proposed Seasonal Outdoor Patio Licensing By-law Amendments
2. Proposed Seasonal Outdoor Patio Noise Control By-law Amendments
3. Proposed Seasonal Outdoor Patio Fees and Charges By-law Amendments
4. Seasonal Patio Public Survey Results

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Approved by

A handwritten signature in blue ink, appearing to read "Gus Michaels".

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Reviewed by

A handwritten signature in black ink, appearing to read "Nick Spensieri".

Nick Spensieri, City Manager