

THE CITY OF VAUGHAN

BY-LAW

BY-LAW NUMBER 058-2024

A By-law of The Corporation of the City of Vaughan to amend Business Licensing By-law 122-2022, as amended, to allow Eating Establishments and Banquet Halls to apply for a Seasonal Outdoor Patio.

AND WHEREAS subsection 8(3) of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, ("*Municipal Act*") provides that a by-law under section 10 and 11 of the *Municipal Act* may regulate or prohibit, require persons to do things, and provide for a system of licences respecting a matter;

AND WHEREAS subsection 11(3) of the *Municipal Act* sets out that a lower-tier municipality may pass by-laws with respect to business licensing;

AND WHEREAS section 151(1) of the *Municipal Act* provides that a municipality may provide for a system of licences with respect to a business;

AND WHEREAS Council has determined that it is desirable to make amendments to Business Licensing By-law 122-2022, as amended, to allow certain Licence holders to apply for and obtain an endorsement for a seasonal outdoor patio;

NOW THEREFORE the Council of The Corporation of the City of Vaughan ENACTS AS FOLLOWS:

1. That Business Licensing By-law 122-2022, as amended, be further amended by adding the following recitals to the By-law:

AND WHEREAS section 446 of the *Municipal Act* provides that where a municipality has the authority to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense, and that the municipality may recover the costs of doing a matter or thing by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes;

2. That Business Licensing By-law 122-2022, as amended, be further amended by

adding the following definitions to Part 3.0 in alphabetical order:

“Landlord” means the registered owner of a property that contains an *Eating Establishment* or a *Banquet Hall* or both, or a *Person* with the authority to act on the owner’s behalf;

“Public Lands” means lands owned by the *City*, and shall include but not be limited to the boulevard, any *Highway*, lane, alley, square, place, viaduct or trestle, water, way or bridge, park, woodland, greenbelt, storm water management facility, open space, municipal golf course or cemetery, and all parts thereof, including any surface, grassed area, boulevard, ditch, curb, gutter and *Sidewalk*, but does not include property owned by the Regional, Provincial, Federal Government, a Crown Corporation, Hydro, Utility or Railway Company;

“Seasonal Outdoor Patio” means a designated seasonal outdoor area accessory to an *Eating Establishment* or a *Banquet Hall* where food or drink are offered for sale or served; or where food and drink are brought from within the *Eating Establishment* or *Banquet Hall* to the outdoor area for consumption;

3. That Business Licensing By-law 122-2022, as amended, be further amended by repealing section 4.12(3) and replacing it with the following:
 - (3) Where any *Licensee* fails to comply with a request to inspect or fails to comply with the *Notice to Comply*, the *Chief Licensing Officer* may suspend or revoke the *Licence* or the *Endorsement*.
4. That Business Licensing By-law 122-2022, as amended, be further amended by adding section 7.0(10) to read as follows:
 - (10) Any *Owner* of a *Banquet Hall* that would like to obtain a *Seasonal Outdoor Patio Endorsement* shall comply with all of the provisions in Part 12.2.
5. That Business Licensing By-law 122-2022, as amended, be further amended by adding section 12.0(3) to read as follows:
 - (3) Any *Owner* of an *Eating Establishment* that would like to obtain a *Seasonal Outdoor Patio Endorsement* shall comply with all of the provisions in Part 12.2.
6. That Business Licensing By-law 122-2022, as amended, be further amended by adding **Part 12.2 Seasonal Outdoor Patios** to read as follows:

Part 12.2 Seasonal Outdoor Patios

- (1) No *Person* shall establish, have, or operate a *Seasonal Outdoor Patio* unless an *Endorsement* under his or her *Eating Establishment* or *Banquet Hall Licence* has been obtained, and is in compliance with the provisions of this By-law and the terms and conditions of the *Endorsement*;
- (2) No *Person* shall apply for an *Endorsement* for a *Seasonal Outdoor Patio* unless that *Person* is an *Owner* who:
 - (a) owns a *Business* that is primarily an *Eating Establishment* or a *Banquet Hall*; and
 - (b) is duly *Licensed* by the *City* to operate such *Business*; and
 - (c) meets all requirements under this By-law; and
 - (d) is in compliance with all other 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, the Smoke-Free Ontario Act, Alcohol and Gaming Commission of Ontario Act, 2019*; and
 - (e) has written permission from the *Landlord* to establish or operate a *Seasonal Outdoor Patio*.
- (3) Every *Owner* who intends to establish, have, or operate a *Seasonal Outdoor Patio* for his or her *Eating Establishment* or *Banquet Hall*, and is eligible to do so under section 12.2(2), shall:
 - (a) apply for an *Endorsement* under his or her *Licence* for one *Seasonal Outdoor Patio*;
 - (b) provide proof, in a manner satisfactory to the *Chief Licensing Officer*, that the *Business* has general commercial liability insurance in an amount of at least \$2,000,000; and
 - (c) provide proof, in a manner satisfactory to the *Chief Licensing Officer*, that the *Landlord* agrees to the *Owner*, establishing, having, or operating a *Seasonal Outdoor Patio*;
 - (d) provide a sketch of the proposed *Seasonal Outdoor Patio* satisfactory to the *Chief Licensing Officer*.

- (4) *Seasonal Outdoor Patio Endorsement* must be renewed for every season (i.e., April 1 to November 1) prior to operation of the *Seasonal Outdoor Patio*.
- (5) Despite section 12.2(3), the *Chief Licensing Officer* may require an *Owner* to provide any other information that the *Chief Licensing Officer* deems appropriate to ensure the health and safety of the public, consumer protection, or nuisance control, and failure to do so will automatically result in the application for a *Seasonal Outdoor Patio Endorsement* being denied.
- (6) Despite meeting the criteria in section 12.2(3), the *Chief Licensing Officer* may deny an application for a *Seasonal Outdoor Patio Endorsement*, if he or she is of the opinion that the proposed *Seasonal Outdoor Patio* may pose a risk to the health and safety of the public, or may have a negative impact on consumer protection, or nuisance control.
- (7) *Seasonal Outdoor Patios* shall only operate from April 1 to November 1.
- (8) *Seasonal Outdoor Patios* shall be dismantled and removed in their entirety from November 2 to March 31.
- (9) A *Seasonal Outdoor Patio* is only permitted on private property and shall be located adjacent to the *Eating Establishment* or the *Banquet Hall* that it was established to serve.
- (10) Notwithstanding Section 12.2(9), where an *Eating Establishment* or a *Banquet Hall* is not the only use on the property, the *Seasonal Outdoor Patio* shall be located on parking space(s) adjacent to the side of the *Eating Establishment* or *Banquet Hall* that has an entrance for its patrons.
- (11) Every *Owner* shall ensure that a *Seasonal Outdoor Patio* and any of its appurtenances shall:
 - (a) be at least 5.0 metres from a point at the edge on any driving or parking surface that is directly in front of a fire hydrant or fire department connection;
 - (b) provide an unobstructed pathway to such fire hydrant or fire department connection that is at least 5.0 metres wide at any point;
 - (c) not encroach on or occupy any laneway or other area deemed a fire route;

- (d) not encroach on or occupy a sidewalk that is fronting an entrance to an *Eating Establishment* or a *Banquet Hall* or any other path of travel intended for use by the general public;
 - (e) not encroach onto or occupy any portion of *Public Lands*, a drive aisle on a parking lot, or a driveway; and
 - (f) not encroach on or occupy any portion of the following, if designated for persons with a disability: a parking space, or area/access point.
- (12) Every *Owner* shall ensure that the perimeter of a *Seasonal Outdoor Patio* shall be enclosed by a temporary fence:
- (a) of no less than 1.0 metres in height;
 - (b) that is self-supporting, plumb and in good repair;
 - (c) that is of a construction that will not under normal circumstances allow a *Person* to pass through or underneath it; and
 - (d) that has reflective markings that are spaced no more than 2.0 metres from each other.
- (13) Every *Owner* shall ensure that access to a *Seasonal Outdoor Patio* shall:
- (a) be attended by a dedicated staff member of the *Eating Establishment* or *Banquet Hall*; and
 - (b) meet all the accessibility requirements under the *Accessibility for Ontarians with Disabilities Act, 2005*, S.O. 2005, c. 11 and its relevant regulations.
- (14) No shelter or cover is permitted in or over *Seasonal Outdoor Patios* other than umbrellas that are constructed of fire retardant materials, and awnings, tents, or roofs only if they are in compliance with applicable legislation, by-laws and 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 of fire retardant materials.
- (15) *Seasonal Outdoor Patios* shall not obstruct stormwater flows or block stormwater drains.
- (16) No *Person* is allowed to smoke tobacco or cannabis, or vape any substance on a *Seasonal Outdoor Patio*, or within 9m (29.5 ft.) of a *Seasonal Outdoor*

Patio in accordance with the *Smoke-Free Ontario Act, 2017*.

(17) The following activities are not permitted in a *Seasonal Outdoor Patio*:

- (a) open air fires or solid, gel or liquid fuel fire featured items;
- (b) cooking or food preparation;
- (c) amplified sound or music which is not allowed under *City's* Noise By-law or Special Event's By-law, as amended or their successor by-laws.

(18) Notwithstanding any other provisions of this Part, the *Chief Licensing Officer* may impose terms and conditions on *Endorsement* for a *Seasonal Outdoor Patio* at issuance, renewal or at any other time during the *Endorsement* period, including special conditions, as he or she may deem necessary.

(19) No *Landlord* shall have a *Seasonal Outdoor Patio* on his or her property unless it is in compliance with this By-law and the terms and conditions of the *Endorsement*.

Voted in favour by City of Vaughan Council this 22nd day of April, 2024.

Steven Del Duca, Mayor

Todd Coles, City Clerk

Authorized by Item No. 10 of Report No. 14 of the Committee of the Whole.
Report adopted by Vaughan City Council on April 22, 2024.
City Council voted in favour of this by-law on April 22, 2024.
Approved by Mayoral Decision MDC 005-2024 dated April 22, 2024.
Effective Date of By-Law: April 22, 2024