

# ***THE CITY OF VAUGHAN***

# ***BY-LAW***

## **BY-LAW NUMBER 030-2023**

**A By-law to amend Business Licensing By-law 122-2022 to introduce new categories of licences for restaurants, pubs, lounges, and night clubs.**

**WHEREAS** subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25 (“*Municipal Act*”), as amended, provides that a municipal power shall be exercised by by-law;

**AND WHEREAS** subsection 8(1) of the *Municipal Act* provides that the powers of a municipality under this Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality’s ability to respond to municipal issues;

**AND WHEREAS** subsection 8(3) of the *Municipal Act* provides that a by-law may regulate or prohibit respecting the matter, require persons to do things respecting the matter, and provide for a system of licences respecting the matter;

**AND WHEREAS** subsection 11(1) of the *Municipal Act* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

**AND WHEREAS** subsection 11(2) of the *Municipal Act* provides that a municipality may pass by-laws, subject to certain restrictions, respecting the economic, social and environmental well-being of the municipality; the health, safety and well-being of persons; and protection of persons and property;

**AND WHEREAS** subsection 151(1) of the *Municipal Act* provides that a municipality may license, regulate and govern any business, activity or undertaking wholly or partly carried on within the municipality, including refusal to grant a licence, revoking a licence, or suspending a licence;

**AND WHEREAS** the Council for the City of Vaughan has determined that it is appropriate to introduce a new category of licence for pubs, lounges and night clubs that impose specific requirements to ensure the security and safety of those within its jurisdiction, and mitigate public nuisances that adversely affect the quality of life for communities;

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

1. Amend section 3.0(1) of By-law 122-2022, as amended, by:

(a) amending the definition of “Eating Establishment” to read as follows:

“Eating Establishment” means a building or place where food and drink are prepared and offered for sale and served at the same table or counter where the food and drink are ordered and are to be consumed and shall include but not be limited to, cafeteria-style, buffet, self-service, or take out facilities, and includes *Restaurant; Eating Establishment, Convenience; Eating Establishment, Convenience with Drive-through; and Eating Establishment, Takeout*, but shall not include a *Banquet Hall, Pub, Lounge* or a *Night Club* as a principal or an accessory use;

(b) add the following definitions in alphabetical order:

(i) “Full-Service Kitchen” means a kitchen in an *Eating Establishment* where food is cooked and prepared for the consumption of the *Eating Establishment’s* patrons, and is fully equipped to handle all aspects of food preparation and service for events, including a complete range of kitchen appliances, cookware, utensils, and other necessary items, as well as a team of trained staff.

(ii) “Lounge” means a building or part of a building that:

(a) meets the definition of “Restaurant” under the City’s Zoning By-law 001-2021, as amended;

(b) does not meet the definition of “Restaurant” under this By-law;

(c) has as its *Predominant Purpose* the sale and service of alcohol in a lounge-like atmosphere. In determining atmosphere, the *Chief Licensing Officer* shall have regard to the characteristics listed in section 12.1(1). The sale of food as secondary and/or incidental to the *Predominant Purpose*; and

(d) has live or pre-recorded music provided for listening entertainment or dancing played at a volume that exceeds

that at which normal conversation is possible.

For greater certainty, a *Lounge* does not include a *Night Club*, *Pub*, *Banquet Hall*, or *Adult Entertainment Establishment*.

- (iii) “Night Club” means a building or part of a building that:
  - (a) meets the definition of “Night Club” under the City’s Zoning By-law 001-2021, as amended, where “beverages” referenced therein means “non-alcoholic beverages”;
  - (b) does not meet the definition of “Restaurant” under this By-law;
  - (c) has as its *Predominant Purpose* the sale and service of alcohol in a night club-like atmosphere. In determining atmosphere, the *Chief Licensing Officer* shall have regard to the characteristics listed at section 12.1(1). The sale of food is secondary and/or incidental to the *Predominant Purpose*; and
  - (d) has live or pre-recorded music provided for listening entertainment or dancing played at a volume that exceeds that at which normal conversation is possible.

For greater certainty, a *Night Club* does not include a *Lounge*, *Pub*, *Banquet Hall*, or *Adult Entertainment Establishment*.

- (iv) “Person of Authority” means a *Person* authorized by the *Owner* of a *Pub*, *Lounge* or *Night Club* to operate, manage, supervise, run or otherwise control the *Pub*, *Lounge* or *Night Club*.
- (v) “Predominant Purpose” means the purpose for which the average ordinary and reasonable patron would frequent the *Premises* at any time. In determining the *Predominant Purpose* of a building or part of a building, the *Chief Licensing Officer* shall have regard to the factors listed in section 12.1(1).
- (vi) “Pub” means a building or part of a building that:
  - (a) meets the definition of “Restaurant” under the City’s Zoning By-law 001-2021, as amended;
  - (b) does not meet the definition of “Restaurant” under this By-law;

- (c) has as its *Predominant Purpose* the sale and service of alcohol, and may include the sale of food as secondary and/or incidental to the *Predominant Purpose*; and
- (d) may have live or pre-recorded music provided for listening entertainment or dancing played at a volume at which normal conversation is possible.

(vi) “Restaurant” means a building or part of a building that:

- (a) Meets the definition of “Restaurant” under the City’s Zoning By-law 001-2021, as amended; and
- (b) Has at least 70% of the floor space that is accessible to the establishment’s patrons dedicated to the service of food and drink by means of an on-site *Full-Service Kitchen* at all times; and
- (c) provides service of food and drink at the same table or counter where the food and drink are ordered and are to be consumed.

For greater certainty, a *Restaurant* does not include a *Lounge*, *Night Club*, *Banquet Hall*, *Adult Entertainment Establishment* or *Pub*.

(vii) “Security Guard” means a person whose responsibility or duty while engaged or hired by a *Lounge* or *Night Club* includes guarding or patrolling the premises for the purpose of ensuring orderly conduct and protecting persons or property.

2. Amend Schedule “A” of By-law 122-2022, as amended, by adding in alphabetical order “*Lounge (Owner)*”, “*Night Club (Owner)*”, “*Pub (Owner)*” and “*Restaurant (Owner)*”.

3. Amend Part 4.3 of By-law 122-2022, as amended, by adding the following sections:

(3.1) A *Person* who holds a *Licence* for a *Lounge*, *Night Club* or *Pub*, pursuant to Part 12.1, may apply for an *Endorsement* to operate as a *Restaurant*, in accordance with section 12.1(4) by providing the *City* with notice of his or

her intent to do so and stipulating the days and times on which the *Lounge, Night Club or Pub* is to operate as a *Restaurant*.

(3.2) No *Owner of a Lounge, Night Club or Pub* may operate or permit a *Lounge, Night Club or Pub* to operate as a *Restaurant* except as indicated on its *Endorsement*.

(3.3) Any changes to the days and times of operation as per an *Endorsement* under section 4.3(3.1) must be submitted to the *Licensing Office*, and such changes shall not be implemented by the *Owner* until a new *Endorsement* reflecting the new days and times has been issued by the *City*.

4. Amend Part 4.3 of By-law 122-2022, as amended, by amending section 4.3(4) so that it now reads as follows:

A *Person* performing an additional *Business* activity under the authority of an *Endorsement*, pursuant to 4.3(1), 4.3(2), 4.3(3), or 4.3(3.1) shall comply with all of the pertinent provisions under this By-law with respect to the additional *Business* activity.

5. Amend By-law 122-2022, as amended, by adding the following part:

#### **12.1 Pubs, Lounges and Night Clubs**

(1) For the purposes of this Part, in determining the *Predominant Purpose* of a *Business* or part of a *Business*, the *Chief Licensing Officer* shall have regard to the following factors, which may either individually or cumulatively indicate that the *Business* or part of the *Business* is a *Lounge* or *Night Club*:

- (a) the imposition on patrons of a cover charge to be granted entry to all or part of the building;
- (b) the presence of a lighting system, sound system, and/or disc jockey booth, greater in scope than would reasonably be expected in an *Eating Establishment*;
- (c) the presence of VIP rooms where the service of food is not the primary function of the room;
- (d) the existence of a stage or a dance floor for musical performances and/or dancing;
- (e) operating hours past 12 a.m.;

- (f) the promotion of recorded or live music events, bottle service and/or similar services and amenities suggestive of a party atmosphere;
  - (g) the communication or enforcement of age restrictions for all or part of the time the *Business* is operating.
- (2) In addition to any other requirements in this By-law, upon application for a *Licence* or renewal thereof, every *Owner* of a *Pub*, *Lounge* or *Night Club* shall provide the following:
- (a) confirmation, in a manner satisfactory to the *Chief Licensing Officer*, that the *Pub*, *Lounge* or *Night Club* complies with the City's Zoning By-law, as amended;
  - (b) a sworn declaration respecting the proposed use of the premises;
  - (c) a criminal record check from an Ontario police service that is dated within ninety (90) days of the date of application;
  - (d) a list of all *Persons of Authority* for the *Pub*, *Lounge* or *Night Club*, including current contact information for each *Person* on the list;
  - (e) a criminal record check from an Ontario police service for each *Person* under 12.2(d) that is dated within ninety (90) days of the date of application;
  - (f) a noise control plan, satisfactory to the *Chief Licensing Officer*, that includes a description of:
    - (i) the maximum volume levels for music within the *Pub*, *Lounge* or *Night Club*;
    - (ii) the wattage of the music or sound-producing systems used in the *Pub*, *Lounge* or *Night Club*; and
    - (iii) the sound insulation methods or mechanisms used within the building;
  - (g) a crowd control plan, satisfactory to the *Chief Licensing Officer*, that includes a description of:
    - (i) the manner in which people seeking entry or re-entry into the *Pub*, *Lounge* or *Night Club* may line up outside prior to entry,

- including the location of such line-ups and the maximum number of people permitted to be in such line-ups; and
- (ii) the procedures used to monitor the line-ups, to control the number of people in the line-ups, to ensure orderly conduct by the people in the line-ups, and to ensure that such line-ups do not prevent or obstruct other pedestrians or *Persons* from accessing adjacent *Businesses*;
- (h) a litter control plan that identifies where litter containers are to be placed, how often they are to be checked and maintained, and how the areas adjacent to the *Pub, Lounge or Night Club* are to be maintained clean and free of litter, waste and other debris.
- (3) Every *Owner* of an *Eating Establishment*, as defined in the Business Licensing By-law prior to the coming into force of this By-law, that meets the definition of a *Pub, Lounge or Night Club*, as defined in this By-law, shall submit an application for a corresponding *Licence*, that satisfies the *Licensing* requirements of this Part and that is in a form satisfactory to the *Chief Licensing Officer*, by no later than June 30, 2023, and for greater certainty there shall be no fee for such transitional application and there shall be no effect on either the *Owner's Licence* renewal date or fee.
- (4) Despite any other provisions in this Part, if and while a *Pub, Lounge or Night Club* operates as a *Restaurant*, and an *Endorsement* on the *Pub, Lounge or Night Club Licence* for a *Restaurant* exists pursuant to Part 4.3, the *Pub, Lounge or Night Club* may operate under the *Restaurant* provisions of this By-law. For greater certainty, a *Pub, Lounge or Night Club*, while operating under a *Restaurant Endorsement*, may only operate as a *Restaurant*, as defined, and may not operate in any way or manner as a *Pub, Lounge or Night Club*, as defined.
- (5) Notwithstanding any other section of this By-law, every *Pub, Lounge or Night Club* and every *Person of Authority* on site shall post a notice of availability of the *Food Safety Inspection Report*.

- (6) Notwithstanding any other section of this By-law, every *Owner* of a *Pub*, *Lounge* or *Night Club* and every *Person of Authority* on site shall, when so requested by any *Person*, produce for inspection the most recent *Food Safety Inspection Report* or *Reports*.
- (7) Every *Owner* of a *Pub*, *Lounge* or *Night Club* and every *Person of Authority* on site shall ensure that:
- (a) the municipal *Business Licence* issued by the *City* is posted prominently in the entrance way to the *Pub*, *Lounge* or *Night Club*;
  - (b) a placard issued by the *Chief Fire Official* stipulating the maximum occupancy for such room is posted on the inside wall of each room adjacent to the entrance of the room;
  - (c) any fire escape or other means of egress is not obstructed in any manner or to such an extent as to prevent its unfettered use.
- (8) The following general conditions are to be applied in addition to any other conditions provided for in this By-law or any specific conditions contained within the *Licence*:
- (a) Every *Owner* of a *Pub*, *Lounge* or *Night Club* shall notify the *Licensing Office* in writing no later than one (1) business day after any change in the names of contact information contained on the list of *Persons of Authority*, as filed with the *Licensing Office*;
  - (b) Every *Owner* of a *Pub*, *Lounge* or *Night Club* shall designate at least one (1) person named on the list of *Persons of Authority*, as filed with the *Licensing Office*, to be present in the *Pub*, *Lounge* or *Night Club* at all times while it is operating;
  - (c) No *Owner* of a *Pub*, *Lounge* or *Night Club* shall operate, or permit to be operated, their *Pub*, *Lounge* or *Night Club* except in accordance with the noise control plan, crowd control plan and litter control plan filed in accordance with section 12.1(2).
  - (d) Every *Owner* of a *Pub*, *Lounge* or *Night Club* shall ensure that the hours of operation of the *Business* are in accordance with the application permit issued under the *Liquor License and Control Act*,



2019 and that such hours of operation be posted in a conspicuous manner at the entrance to the *Pub, Lounge or Night Club*.

- (9) Every *Owner* of a *Lounge or Night Club* and every *Person of Authority* on site shall ensure that when the *Lounge or Night Club* is open for *Business*:
- (a) there is at least one *Security Guard* for every one hundred (100) patrons in attendance;
  - (b) all *Security Guards*, while on duty, are wearing identification or clothing that readily identifies them as *Security Guards*;
  - (c) at each entrance to the *Lounge or Night Club* there is stationed at least one *Security Guard* with a properly working metal detector and that every patron of the *Lounge or Night Club*, prior to entering the *Lounge or Night Club*, has been scanned with such metal detector, and vetted to the satisfaction of the *Owner* in the event that the metal detector has been triggered; and
  - (d) no *Person* with a weapon of any type enters the *Lounge or Night Club*.
- (10) Every *Owner* of a *Lounge or Night Club* shall ensure that every *Security Guard* is in full compliance with the requirements under the *Private Security and Investigative Services Act, 2005*.
- (11) Every *Owner* shall ensure that their *Lounge or Night Club* has properly working and operable high-definition security cameras at every point of ingress and egress of the *Lounge or Night Club* and such cameras shall be positioned so that they provide a view of the exterior of the *Lounge or Night Club* with at least a ten (10) metre radius from the corresponding point of ingress or egress.
- (12) Every *Owner* of a *Lounge or Night Club* shall ensure that a security camera subject to section 12.1(11) provides a continuous recording of at least one (1) hour before and one (1) hour after the *Lounge or Night Club* is operating each day and such recordings shall be kept for a minimum of thirty (30) days.

- (13) Security camera recordings subject to section 12.1(12) shall be produced by the *Owner* of the *Lounge* or *Night Club* or a *Person of Authority* for inspection and copying if requested by the *Chief Licensing Officer*.
- (14) Every *Owner* of a *Lounge* or *Night Club* shall ensure that signs are placed in a conspicuous manner near all entrances and exits, both inside and outside the *Lounge* or *Night Club*, that state that the premises are under video surveillance and that every *Person* accessing the *Lounge* or *Night Club* may be video recorded.
- (15) An *Owner* of a *Pub, Lounge* or *Night Club* may dispute a decision from the *Chief Licensing Officer* with respect to an application under 12.1(3), through the process established under Part 4.10 of this By-law, if such *Owner* delivers a notice in writing requesting the appeal within 7 days of the decision from the *Chief Licensing Officer* being issued.

Enacted by City of Vaughan Council this 21<sup>st</sup> day of March, 2023.

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Steven Del Duca, Mayor

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Todd Coles, City Clerk