



COUNCIL – JUNE 29, 2020
STAFF COMMUNICATIONS

Distributed June 29, 2020

SC1 City Clerk, dated June 29 2020

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DATE: June 29, 2020

**STAFF COMMUNICATION – SC1
Council – June 29, 2020**

TO: Mayor and Members of Council

FROM: Todd Coles, City Clerk

**RE: STAFF COMMUNICATION – June 29, 2020
Exercising of Delegated Authority under the COVID-19 Emergency
Measures By-law**

1. Purpose

The purpose of this Staff Communication is to provide Council information regarding the issuance of an Order by the Head of Council, in accordance with [By-law 037-2020](#).

2. Analysis

Background

At the Special Committee of the Whole of April 8, 2020, Committee considered a report titled “[Implementation of Emergency Measures to Effectively Manage the COVID-19 Pandemic](#)”, from the Acting City Manager. The purpose of that report was to seek approval to enact a temporary emergency measures by-law providing extended authorities to both the Head of Council and City Officials to effectively and expeditiously combat issues relating to the spread of COVID-19.

The report was ratified at the Special Council meeting of April 8, 2020. The COVID-19 Emergency Measures By-law ([By-law 037-2020](#)) was adopted.

Delegated Authority to the Head of Council

In addition to the extended enforcement powers, the COVID-19 Emergency Measures By-Law sets out the following delegated authorities for the Head of Council:

- Exercise statutory powers of Council necessary to address the COVID-19 pandemic. This authority can be exercised where:
 - The authority is necessary and essential to address the situation in a timely manner, and to prevent, reduce or mitigate serious harm to persons;
 - The exercise of authority is required to alleviate harm or damage; and
 - The actions authorized reasonably limit their intrusiveness (in terms of the effect of the order, the temporal limit, and geographic scope within the City).
- An Order made by the Head of Council under this By-law is revoked after 30 days (unless it is revoked sooner, or it is otherwise stated in the Order).

- The Head of Council is also required to prepare a report to Council outlining any Orders made, and Orders will also be posted on the City's website.

Order Issued by the Head of Council

In accordance with the delegated authority in COVID-19 Emergency Measures By-law (By-law 037-2020), the Mayor, as Head of Council, ordered the passing of the Temporary Relief Through Special Events By-law ([By-law 074-2020](#)). This by-law permits eating establishments and banquet halls to operate temporary outdoor patios through the special event process. The effect of this by-law is limited to 30 days.

Mandatory Reporting of Use of Authority

Section 4.0(5) The COVID-19 Emergency Measures By-law (By-law 037-2020) requires the following when the Head of Council exercises their delegated authority:

"Within 30 days of the Head of Council's first exercise of the authority delegated under 4.0(1), the Head of Council shall prepare a report to City Council for submission to the next scheduled meeting of the Council providing:

- (a) the justification for having exercised the delegated authority.
- (b) an outline of the actions taken with the delegated authority.
- (c) any recommendations arising from the emergency."

In accordance with this requirement, Mayor Bevilacqua has prepared a memo (Attachment #1) addressing the justification, actions and recommendations of the emergency order.

3. Conclusion

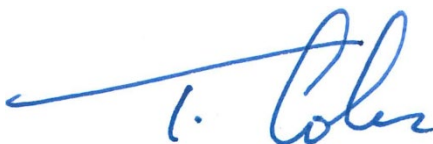
In accordance with the requirements of the COVID-19 Emergency Measures By-law (By-law 037-2020), the Head of Council has brought forward a report with respect to the exercising of his delegated authority under this by-law.

For more information, contact Todd Coles, City Clerk x8281.

Attachments

1. Memorandum from Mayor Bevilacqua - Exercising the Delegated Authority of the Head of Council – Temporary Outdoor Patios

Respectfully submitted,



Todd Coles, City Clerk

DATE: June 29, 2020
TO: Vaughan City Council
FROM: Hon. Mayor Maurizio Bevilacqua; P.C.
SUBJECT: **Exercising the Delegated Authority of the Head of Council – Temporary Outdoor Patios**

Recommendation

That this report be received.

Purpose:

To provide a report to City Council, in accordance with the City's Emergency Measures (CEM) By-law #037-2020, Section 4.0 Delegated Authorities to the *Head of Council*, subsection (5) that requires, within 30 days of the *Head of Council* having exercised the authority, subject to Section 4.0 (2), the *Head of Council* shall report to *City Council* providing the justification for having exercised the delegated authority, outline the actions taken and any recommendation that arose from it.

Background:

Declaration of Provincial Emergency

On March 17, 2020, on the recommendation of the Lieutenant Governor of Ontario, by and with the advice and concurrence of the Executive Council of Ontario, a **Declaration of Emergency under the Emergency Management and Civil Protection Act was established by the Province of Ontario to address an outbreak of a communicable disease namely COVID-19 coronavirus disease** that was determined to constitute a danger of major proportions that could result in serious harm to persons; thereby satisfying the criteria set out in subsection 7.0.1(3) of the *Emergency Management and Civil Protection Act*, R.S.O. 1990, chapter E.9 (the "Act").

Declaration of Emergency – City of Vaughan

In response, on March 17, 2020 as the Head of Council, I declared a state of emergency in the City of Vaughan.

Closure of all Non-Essential Business – EMCPA O.Reg. 82/20

On March 25, 2020 all non-essential businesses in Ontario were ordered closed.

Enactment of the City of Vaughan COVID-19 Emergency Measures By-law #037-2020

At its meeting of April 8, 2020, Vaughan City Council adopted the City's *COVID-19 Emergency Measures By-law #037-2020* establishing delegated authority to the *Head of Council, City Manager and Director, By-law & Compliance, Licensing & Permit Services*. Delegated Authorities to the *Head of Council* included City Council delegating its statutory authority under the Municipal Act and any other legislation to the *Head of Council*.

Phased in Stage 1 Re-Opening of Businesses pursuant to the *EMPCA O.Reg. 219/20* amending *O.Reg. 82/20*.

On May 16, 2020 under explicit criteria, non-essential businesses were permitted to begin re-opening, predominantly through curbside pick-up and delivery, alternative operating models and specific public health guidelines.

Phased in Stage 2 Re-Opening of Businesses pursuant to the *EMPCA O.Reg. 263/20* amending *O.Reg. 82/20*.

On June 19, 2020, the Regional Municipality of York was permitted to proceed to Stage 2, under amended criteria to allow for expanded business operations, including the provision to allow for outdoor dining through the use of outdoor patios.

Staff initiated review of outdoor patios

On or about early May 2020, prior to implementation of Stage 2 by the Province of Ontario, staff from By-law & Compliance, Licensing & Permit Services (BCLPS), Building Standards (BS), Development Planning (DP) and Economic Development, Culture and Tourism (EDCT), supported by Legal, initiated a review of permitting licensed eating establishment and banquet halls the ability to expand and/or establish of outdoor patios, in addition to take out, pick and delivery as mandated at Stage 1. Staff prepared a report ([Communication C19](#) from the Director & Chief Licensing Officer) for the meeting of the Committee of the Whole, recommending that eating establishments and banquet halls should be permitted to expand and/or establish outdoor patios that will facilitate safe outdoor dining, subject to provincial approval to progress to Stage 2 within Vaughan. Staff recommendations included adoption of a temporary use (zoning) by-law, amending temporary site plan by-law and introduction of a temporary outdoor patio by-law that would facilitate use and operation of outdoor patios.

Committee of the Whole staff report and adoption by Council on May 27, 2020

At its meeting of May 27, 2020, Council adopted recommendations from the May 20, 2020 Committee of the Whole meeting, directing staff to proceed with the staff's recommendation, including scheduling of the required Public Hearing; that took place on [June 25, 2020](#).

Public concerns with required timeliness for passing of necessary by-laws

Given the process of approval of a temporary use (zoning) by-law as prescribed by the Planning Act of Ontario, following the required Public Hearing and further adoption of final staff recommendation scheduled to proceed on June 29, 2020, a 20 day mandatory appeal period must be exercised, prior to enactment of the by-law. By doing so, business operators would not be able to proceed until after July 18, 2020; and barring any appeal to the Local Planning Appeal Tribunal (LPAT).

To address this staff were tasked with exploring any interim options and/or relief that may be available to allow for business operators to benefit from this initiative prior to July 18, 2020.

Conclusion**Adoption of an interim Temporary Relief through Special Events By-law**

On June 18, 2020, a cross-departmental team, including BS, DP, EDCT and Legal, led by BCLPS made recommendations to the *Head of Council* to exercise the delegated authority granted to the *Head of Council*, through the City's COVID 19 Emergency Measures By-law (CEM) #037-2020 and to adopted the interim Temporary Relief Through Special Events By-law (By-law 074-2020). The by-law established the lawful ability for qualified business operators to expand/establish an outdoor patio, as an interim solution that bridges that gap between June 19, 2020 and July 18, 2020, as required.

Justification for the exercising of Delegated Authority of the Head of Council

In accordance with the CEM By-law, Section 4.0 (5), it was determined that not proceeding with the exercising of this delegated authority, thereby not adopting the interim Temporary Relief Through Special Events By-law would lead to further and irreparable financial hardship for affected businesses, that the authority of the CEM By-law provides the ability for the *Head of Council* to adopt a by-law subject to provisions within, that it was necessary to utilize the delegated authority to address an immediate situation in a timely manner and that it was reasonable and necessary to further alleviate damages or harm to affected businesses.

As such, and in accordance with the provisions as outlined within the City's CEM By-law # 037-2020, on June 18, 2020, the *Head of Council*, the Hon. Mayor Maurizio Bevilacqua exercised his authority and adopted the interim Temporary Relief through Special Events By-law having been satisfied that in doing so, the criteria of the CEM By-law had been met.

Sincerely,


Mayor Maurizio Bevilacqua