

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF JUNE 29, 2020

Item 1, Report No. 29, of the Committee of the Whole (Public Hearing), which was adopted without amendment by the Council of the City of Vaughan on June 29, 2020.

**1. CITY OF VAUGHAN ZONING BY-LAW AMENDMENT FILE Z.20.017
TEMPORARY USE BY-LAW TO PERMIT TEMPORARY OUTDOOR
PATIOS FOR EATING ESTABLISHMENTS AND BANQUET HALLS**

The Committee of the Whole (Public Hearing) recommends:

- 1) That the recommendation contained in the following report of the Acting Deputy City Manager, Planning and Growth Management, dated June 25, 2020, be approved; and**
- 2) That communication C1 from Ms. Lori Perciballi, dated June 2, 2020, be received.**

Recommendations

- 1. THAT the Public Hearing report for Zoning By-law Amendment Z.20.017 (City of Vaughan) BE RECEIVED; and any issues identified be addressed by the Development Planning Department in a comprehensive report to the Committee of the Whole.**

Committee of the Whole (Public Hearing) Report

DATE: Thursday, June 25, 2020

WARD(S): ALL

TITLE: CITY OF VAUGHAN

ZONING BY-LAW AMENDMENT FILE Z.20.017

**TEMPORARY USE BY-LAW TO PERMIT TEMPORARY
OUTDOOR PATIOS FOR EATING ESTABLISHMENTS AND
BANQUET HALLS**

FROM:

Mary Reali, Acting Deputy City Manager, Planning and Growth Management

ACTION: DECISION

Purpose

To receive comments from the public and the Committee of the Whole on the City's proposal to enact a citywide temporary use by-law and to permit temporary Outdoor Patios and the temporary expansion of existing Outdoor Patios, both accessory to existing Eating Establishments and Banquet Halls. The temporary use by-law would apply during any period where an emergency has been declared to exist in all or part of the City under section 4 or 7.0.1 of the *Emergency Management and Civil Protection Act*.

Report Highlights

- To receive input from the public and the Committee of the Whole regarding the enactment of a citywide temporary use by-law to permit temporary Outdoor Patios and the temporary expansion of existing outdoor patios, both accessory to existing Eating Establishments and Banquet Halls. The temporary use by-law would apply during any period where an emergency has been declared to exist in all or part of the City under section 4 or 7.0.1 of the *Emergency Management and Civil Protection Act*
- A technical report to be prepared by the Development Planning Department, in consultation with the Building Standards Department and By-Law and Compliance, Licensing and Permit Services Department will be considered at a future Committee of the Whole meeting

Recommendations

1. THAT the Public Hearing report for Zoning By-law Amendment Z.20.017 (City of Vaughan) BE RECEIVED; and any issues identified be addressed by the Development Planning Department in a comprehensive report to the Committee of the Whole.

Background

The City is proposing to enact a temporary use by-law to permit temporary Outdoor Patios and the temporary expansion of existing Outdoor Patios, both accessory to existing Eating Establishments and Banquet Halls on a citywide basis. A Temporary Outdoor Patio by-law is also proposed to establish guidelines and criteria to address various operating requirements.

The Committee of the Whole on May 20, 2020 adopted the following recommendation:

“That staff bring forward a report, if possible, to the May 27, 2020, Council meeting exploring the possibility of relaxing City By-laws and Building Standards to enable the expansion of outdoor patios when bars and restaurants are allowed to reopen in the City, including locating them in parking lots if permitted by their landlords, to offer relief for restaurant owners to recover financial losses faced due to the COVID-19 pandemic restrictions.”

Vaughan Council on May 27, 2020 adopted the recommendation of the Committee of the Whole, as amended as follows:

“By approving the following in accordance with communication C19, from the Director & Chief Licensing Officer, By-law & Compliance, Licensing & Permit Services, dated May 27, 2020:

That Council adopt staff’s recommendations and direct staff to:

1. Schedule a Public Hearing to receive comments from the Public and the Committee of the Whole on a City-wide Zoning By-law amendment to permit temporary Outdoor Patios and the expansion of existing outdoor patios, accessory to existing Eating Establishment Uses for a temporary period during the declared emergency.
2. Prepare a Temporary Use (Zoning) Patio By-law, to amend the City’s Zoning By-law, in a manner acceptable to the City Solicitor.
3. Prepare a Temporary Outdoor Patio By-law that will prescribe the eligibility criteria and establish standards of operation in conjunction with the Temporary Use (Zoning) By-law, in a manner acceptable to City Solicitor.

4. Undertake any other subsequent technical amendments required, including any amendments as may be required to the City's Site Plan Control By-law 123-2013 to bring effect to Recommendations 1, 2 and 3."

The City of Vaughan continues to implement new measures and programs to support local businesses and entrepreneurs, consumers and the wellbeing of all citizens during the global COVID-19 pandemic. The City's By-law and Compliance, Licensing and Permit Services, Development Planning, Building Standards (Zoning), Corporate & Strategic Communications and Economic and Cultural Development Departments have partnered to explore opportunities to permit temporary outdoor patios and the expansion of existing outdoor patios, both accessory to eating establishments and banquet halls, hereafter referred to as "temporary Outdoor Patios", across the City to provide for appropriate social distancing and enable additional seating capacity.

Similar initiatives are being explored by a number of municipalities, including but not limited to, the City of Toronto, City of Markham, City of Guelph and the City of Hamilton.

Public Notice was provided in accordance with the Planning Act and Council's Notification Protocol.

The City on June 4, 2020, mailed a Notice of Public Hearing to all registered Ratepayers Associations within the City of Vaughan. The Notice of Public Hearing was also posted on the City's website at www.vaughan.ca and published in the June 4, 2020 editions of the Vaughan Citizen and The Thornhill Liberal.

Any written comments received will be forwarded to the Office of the City Clerk to be distributed to the Committee of the Whole as a Communication. All written comments received will be reviewed by the Development Planning Department as input in the Application review process and will be addressed in a technical report to be considered at a future Committee of the Whole meeting.

Previous Reports/Authority

The following are links to reports related to this application:

[Council Communication May 27, 2020 - C19 - Director & Chief Licensing Officer, By-law Compliance, Licensing & Permit Services](#)

[Committee of the Whole - May 20, 2020 - Report 20, Item 30 - New Business - Restaurant Patio Expansion](#)

Analysis and Options

Temporary Outdoor Patios conform to VOP 2010

Vaughan Official Plan 2010 ('VOP 2010') permits Eating Establishments and Banquet Halls including accessory Outdoor Patios in the following designations: "Low-Rise Mixed-Use"; "Mid-Rise Mixed-Use"; "High-Rise Mixed-Use"; "Employment Commercial

Mixed-Use”; “Community Commercial Mixed-Use”; “Downtown Mixed-Use”; “Prestige Employment”; “Major Institutional”; and, “Theme Park and Entertainment”. The proposed temporary use By-law would permit temporary Outdoor Patios during the Emergency Order.

Section 10.1.2.4 of VOP 2010, enables the City to enact temporary use By-laws for the temporary use of land, buildings or structures. The temporary use must be: consistent with the general intent of VOP 2010; compatible with adjacent land-uses; temporary in nature; located in an area where sufficient servicing and transportation capacity exists; and, maintains the long-term viability of the lands for the uses permitted by VOP 2010.

Section 10.1.2.20 of VOP 2010, enables the City to consider Site Plan Control for new development. Section 10.1.2.25 allows the City to consider Site Plan Control to include design objectives, including but not limited to, compatibility, conflicts in land use with any adjacent sensitive uses, access routes, internal driveways, pedestrian walkways and parking configurations, suitable parking areas, services and utilities, grading, fencing, lighting, signage, and landscaping. Outdoor Patios are subject to Site Plan Control by the City’s Site Plan Control By-law 123-2013. Site Plan Control for Outdoor Patios is further discussed under the Amendments to Site Plan Control By-law 123-2013 Section of this report.

The proposal to enact a temporary use By-law to permit temporary Outdoor Patios conforms with the temporary use By-law of VOP 2010.

A Temporary Use By-law and an amendment to Site Plan Control By-law 123-2013 are required to permit the temporary Outdoor Patios

Zoning By-law 1-88 permits Outdoor Patios accessory to an Eating Establishment and Banquet Halls in a number of Commercial and Employment Zones. A draft temporary Outdoor Patio by-law, including the proposed provisions are shown in Attachment 1.

Outdoor Patios are subject to the City’s Site Plan Control By-law 123-2013. This By-law delegates to the Commissioner of Planning or designate (Director of Development Planning) authority to make minor changes to existing or approved buildings or site alterations. This includes any amendments to complex agreements or Site Plan Letter of Undertakings for all classes of development where the application conforms to the zoning by-law, the use and development of the lands provided for by the original agreement remains substantially unaltered, and where no City Department or public agency objects to the application. Zoning By-law 1-88 also requires Outdoor Patios to be developed in accordance with an approved site plan. An amendment to Site Plan Control By-law 123-2013, as shown on Attachment 2, is required to exempt the temporary Outdoor Patios from the provisions of Site Plan Control.

Additional provisions for inclusion in the temporary use by-law may be identified through the detailed review of Zoning By-law 1-88 and the Site Plan Control By-law 123-2013 to permit temporary Outdoor Patios and will be considered in a technical report to a future Committee of the Whole meeting.

Temporary Outdoor Patio By-law

The enactment of a standalone Temporary Outdoor Patio By-law is also proposed to establish guidelines and criteria being considered for a temporary outdoor patio to address various operating requirements and related safety concerns, including but not limited to, physical delineation (e.g. curb-stops and fencing) and physical distancing. There is no intent to permit the construction of permanent structures, decks and other fixtures requiring a building permit.

Eating Establishments and Banquet Halls providing for liquor consumption must have a liquor license including for an Outdoor Patio area, in accordance with the Alcohol & Gaming Commission of Ontario ('AGCO'). The AGCO is currently conducting a feasibility study with respect to providing relief to certain conditions to help support the service of alcohol on expanded patios areas during the declared emergency. Staff will continue to monitor for any related information and decisions made or expected from the AGCO. This By-law will also include any requirements of the AGCO (where service of Alcohol is permitted), any other standards recommended by public health officials and/or any other reasonable standards as determined by the City's Chief Licensing Officer, Fire Chief and Chief Building Official.

Following a preliminary review of the requirements for a temporary use by-law, and the Development Planning Department has identified the following matters to be reviewed in greater detail

	MATTERS TO BE REVIEWED	COMMENT(S)
a.	Consistency and Conformity with Provincial Policies, York Region and City of Vaughan Official Plan Policies	<ul style="list-style-type: none">▪ The proposal to permit temporary Outdoor Patios and the temporary expansion of existing outdoor patios, both accessory to existing Eating Establishments and Banquet Halls during the Emergency Order will be reviewed for consistency and conformity with the applicable policies of the Provincial Policy Statement 2020, A Place to Grow: The Growth Plan for the Greater Golden Horseshoe 2019 (the 'Growth Plan'), the York Region Official Plan and Vaughan Official Plan 2010 policies▪ The proposal will be reviewed in consideration of the temporary use and site plan control policies in VOP 2010

	MATTERS TO BE REVIEWED	COMMENT(S)
b.	Proposed Temporary Use By-law	<ul style="list-style-type: none"> ▪ The necessary provisions to be included in a temporary use by-law as they relate to Zoning By-law 1-88, as identified in Attachment 1, required to permit temporary Outdoor Patios during the Emergency Order will be reviewed ▪ Matters including, but not limited to, the temporary provision of Outdoor Patios in parking and landscaped areas, the maximum size of the patio in consideration of the eating establishment or banquet hall, proximity to a Residential Zone, parking standards, and the duration of the temporary use By-law will be reviewed
c.	Heritage Properties	<ul style="list-style-type: none"> ▪ Under the <i>Ontario Heritage Act</i>, RSO 1990, c O.18, any alterations to a Heritage property, or property within a Heritage Conservation District requires Heritage Vaughan review and approval of Council ▪ In consideration of the Outdoor Patios being temporary (i.e. no permanent structures) and will not alter a heritage dwelling, approval from Heritage Vaughan and Council is not required
c.	Exemption from Site Plan Control	<ul style="list-style-type: none"> ▪ Outdoor Patios are currently subject to Site Plan Control. An amendment to Site Plan Control By-law 123-2013 would be required to exempt temporary Outdoor Patios from the requirement for Site Plan Control during the Emergency Order
d.	Timing of Enactment and Duration of a Temporary Use By-law	<ul style="list-style-type: none"> ▪ A technical report for consideration by the Committee of the Whole will be brought forward to the June 29, 2020, meeting immediately followed by a Council meeting thereafter.

	MATTERS TO BE REVIEWED	COMMENT(S)
		<ul style="list-style-type: none"> ▪ Should the Committee of the Whole approve Staff's recommendation(s), the proposed temporary use by-law, amendment to the Site Plan Control By-law and Temporary Outdoor Patio By-law will be forwarded to the June 29, 2020 Council meeting for enactment ▪ It is proposed that the Temporary Use By-law will come into effect once Eating Establishments and Banquet Halls are able to resume dine-in operations (even if restricted to outdoor dine-in options) ▪ It is proposed that the Temporary Use By-law will expire two weeks after the COVID-19 Emergency Order is lifted or January 1, 2021, whichever comes first

Financial Impact

Not applicable.

Broader Regional Impacts/Considerations

Not applicable.

Conclusion

The preliminary issues identified in this report and any other issues identified through the processing of the application will be considered in the technical review. A communication will be provided to address comments from the public and Vaughan Council expressed at the Public Hearing or in writing to a future Committee of the Whole meeting.

For more information, please contact: Mary Caputo, Senior Planner, Development Planning Department, extension 8635.

Attachments

1. Draft Temporary Use By-law
2. Draft Site Plan Control Amendment By-law

Prepared by

Mary Caputo, Senior Planner, ext. 8635

Carmela Marrelli, Senior Manager of Development Planning, ext. 8791

Mauro Peverini, Director of Development Planning, ext. 8407

Rudi Czekalla-Martinez, Manager Policy and Business Planning, By-Law and Compliance, Licensing and Permit Services, ext. 8782

Gus Michaels, Director and Chief Licensing Officer, By-Law and Compliance, Licensing and Permit Services, ext. 8735

Ben Pucci, Director of Building Standards and Chief Building Official, ext. 8872

Elvio Valente, Manager, Zoning Services, Building Standards Department, ext. 8374

BY-LAW NUMBER XXX - 2020

A By-law to authorize the temporary use of land, buildings or structures within the City of Vaughan to accommodate outdoor distancing measures with respect to the COVID-19 Pandemic.

WHEREAS authority is given to Council by Section 34 and Section 39 of the Planning Act, R.S.O. 1990, c.P. 13, as amended, to authorize the temporary use of land, buildings or structures which otherwise is prohibited; and;

WHEREAS Council of the City of Vaughan has provided adequate information to the public and has held at least one public meeting in accordance with the Planning Act; and

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

1. To enact a temporary use by-law to permit a Temporary Outdoor Patio as follows:
 - a) Notwithstanding the provisions of By-law 1-88, as amended, a Temporary Outdoor Patio shall be defined as, "An Outdoor Patio that is authorized by this temporary use by-law as long as it is in effect."
 - b) "Notwithstanding the provisions of By-law 1-88, as amended, relating to Outdoor Patios, a Temporary Outdoor Patio or the temporary expansion of an existing Outdoor Patio accessory to a Banquet Hall, an "Eating Establishment", "Convenience Eating Establishment", "Convenience Eating Establishment with Drive-Through", or Take-Out Eating Establishment shall be permitted in accordance with the following provisions only:
 - i. A Temporary Outdoor Patio accessory to an "Eating Establishment", "Convenience Eating Establishment", "Convenience Eating Establishment with Drive-Through", or Take-Out Eating Establishment shall not exceed one hundred percent (100%) of the gross floor area of the associated eating establishment;
 - ii. A Temporary Outdoor Patio accessory to a "Banquet Hall" shall not exceed Fifty percent (50%) of the gross floor area of the associated Banquet Hall;
 - iii. A Temporary Outdoor Patio may be permitted to occupy required landscaped areas provided that it does not disturb any existing vegetation;
 - iv. All combined Temporary Outdoor Patios may be permitted to occupy parking spaces to a maximum of 20% of the total parking provided on the lot;
 - v. A Temporary Outdoor Patio shall not be permitted to occupy an accessible parking space;
 - vi. Additional parking shall not be required for a Temporary Outdoor Patio;
 - vii. A Temporary Outdoor Patio shall not impede pedestrian or vehicular access to the site;

- viii. A Temporary Outdoor Patio shall not be permitted in any yard located between the building containing the main eating establishment and any Residential Zone;”
- c) All Temporary Outdoor Patios shall comply with the City of Vaughan’s Temporary Outdoor Patio Licensing By-law.”;
- d) The provisions of this By-law shall apply to the lands within the boundaries of the Corporation of the City of Vaughan as shown on the attached Schedule '1' for a period not to exceed 14 days beyond the lifting of the Province of Ontario emergency order, or November 1, 2020, whichever comes first;
- e) This By-law comes into effect on the day of passing

Enacted by the City of Vaughan Council this __ day of _____, 2020.

SUMMARY TO BY-LAW XXX- 2020

This Amendment applies to all of the lands within the corporate boundaries of the City of Vaughan.

The purpose of this by-law is to allow businesses an opportunity to use outdoor spaces adjacent to their business units for the purposes of implementing social and physical distancing measures necessary for the continued operation of the business.

DRAFT

THE CITY OF VAUGHAN

BY-LAW

BY-LAW NUMBER XXX-2020

A By-law to amend By-law 123-2013, the City of Vaughan's Site Plan Control By-law, to exempt temporary outdoor patios accessory to Eating Establishments and Banquet Halls from Site Plan Control.

WHEREAS Subsection 41(2) of the *Planning Act* authorizes Council to enact a By-law to establish a Site Plan Control Area;

AND WHEREAS the whole of the City of Vaughan has been designated a Site Plan Control Area pursuant to Subsection 41(2) of the *Planning Act*;

AND WHEREAS it is deemed appropriate to adopt by by-law site development guidelines and rules for processing Site Development Applications;

AND WHEREAS it is appropriate to adopt by by-law classes of development that may be undertaken without the approval of plans and drawings otherwise required under Subsections 41(4) or (5) of the *Planning Act*;

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

1. To amend the City's Site Plan Control By-law as follows:
 - a) Notwithstanding the provisions of Site Plan Control By-law 123-2013, Outdoor Patios and the expansion of Outdoor Patios, accessory to existing Eating Establishments and Banquet Halls, shall be exempt from the requirement of Site Plan Control for a temporary period; and,
 - b) The provisions of this By-law shall apply to the lands within the boundaries of the Corporation of the City of Vaughan for a period not to exceed 14 days beyond the lifting of the emergency declared to exist in all or part of the City under section 4 and/or 7.0.1 of the *Emergency Management and Civil Protection Act*, or January 1, 2021, whichever comes first.

Enacted by City of Vaughan Council this XXth day of (Month), 2020.

Hon. Maurizio Bevilacqua, Mayor

Todd Coles, City Clerk

Authorized by Item No. ____ of Report No. ____
of the Committee _____
Adopted by Vaughan City Council on

SUMMARY TO BY-LAW XXX- 2020

The purpose of this By-law is to exempt temporary Outdoor Patios from the requirement for Site Plan Control during the Emergency Order.