

**COMMUNICATION – C19  
Council – May 27, 2020  
Committee of the Whole  
Report No. 20, Item 30**

**DATE:** May 27, 2020

**TO:** Hon. Mayor Bevilacqua and respected Members of Council

**FROM:** Gus Michaels, Director & Chief Licensing Officer,  
By-law & Compliance, Licensing & Permit Services

**COPY:** Mary Reali, Acting City Manager and Deputy City Manager Community Services  
Senior Leadership Team

**RE:** **Item 30, May 20, 2020 – Committee of the Whole (2) – Response to Members  
Resolution Item No. 30 NEW BUSINESS – RESTAURANT PATIO  
EXPANSION**

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**Purpose**

To adopt the staff recommendations regarding the implementation of a framework to allow temporary outdoor patios and the expansion of existing outdoor patios associated with existing eating establishments and banquet halls, subject to the passing of two temporary by-laws as prescribed below.

**Recommendations:**

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.

**Background**

At its meeting of Committee of Whole (2), May 20, 2020, NEW BUSINESS – RESTAURANT PATIO EXPANSION, Committee directed 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. The foregoing matter was brought to the attention of the Committee by Regional Councillor Rosati.

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. Prior to the direction of Committee and in anticipation and preparation of future relief being provided to eating establishments, by, at a time to be determined by the Province of Ontario, the City's By-law and Compliance, Licensing and Permit Services has partnered with Development Planning, Building Standards (Zoning), Corporate & Strategic Communications and Economic and Cultural Development departments to explore the possibilities of permitting temporary outdoor patios and the expansion of existing outdoor patios, accessory to eating establishments including restaurants and banquet halls across the City to enable additional seating capacity.

This issue is being explored by a number of municipalities, including but not limited to cities such as the City of Toronto, Markham and other municipalities across York Region. [Municipal Comparative – Attachment '1'].

### **Previous Reports and Authority**

**Item 30, May 20, 2020 – Committee of the Whole (2) – Response to Members Resolution  
Item No. 30 NEW BUSINESS – RESTAURANT PATIO EXPANSION**

### **Analysis and Options**

As part of the exploratory review, staff undertook a municipal comparative, review of related by-laws such as the City's Licensing By-law, Encroachment By-law and more importantly the City's Zoning By-law that regulates the use of private lands within the City, including the established regulations that apply to outdoor patios. Of significance, within the City of Vaughan, prior to consideration of outdoor patio space or expansion thereof, it is important to note that all eating establishments require a valid Vaughan Business Licence.

In Vaughan, all existing outdoor patios are located on private property. Many of which are located within commercial plazas. The proposed expansion or consideration for allowing outdoor patio space will continue to be restricted to private property only. As such, the spaces occupied by the existing and future outdoor patio space are governed by the provisions of the City's Zoning By-law. In accordance with the City's Zoning By-law, a number of performance standards that include requirements for hard surface paving, parking, are directly applicable and may be a direct barrier and restrict the location of new or expansion of existing outdoor patios. The adoption of a Temporary Use (Zoning) Patio By-law will allow for relief of existing zoning requirements (such as use of identified parking areas) that staff believe are reasonable for the duration of the City's declared emergency. To proceed with the introduction of the proposed Temporary Use (Zoning) Patio By-law, staff must schedule a public hearing date, prepare and release the required twenty (20) day notification in accordance with the Planning Act of Ontario, followed by a technical report to be prepared for the June cycle of Committee of the Whole for its consideration, concluding with ratification and a decision of Council and approval of the implementing Temporary Use (Zoning) Patio By-law. In consideration of the current Council meeting calendar, it is likely Special or additional meetings of Council will likely be required.

The proposed new Temporary Outdoor Patio By-law will include guidelines and establish criteria for a temporary patio which address various operating requirements and related safety concerns

(e.g. cannot block a fire route). It should be noted that there is no intent to permit erection of structures, decks and other fixtures that would require a building permit, with the exception of temporary structures such as tents which would be restricted to roof cover with no side panels/enclosures.

Additionally, where alcohol is provided, each eating establishment must have a liquor licence that includes the outdoor patio area, in accordance with the requirements prescribed by the Alcohol & Gaming Commission of Ontario (“AGCO”). Through recent communications with representatives of the AGCO, staff learned that the AGCO is currently conducting its own feasibility study with respect to providing relief to certain conditions that may help support service of alcohol on expanded patio areas during the declared emergency. Staff continue to monitor for any new related information and decisions made or expected from the AGCO, with an interest to having any new requirements incorporated within the proposed Temporary Outdoor Patio By-law in compliance with any provisions of the establishment’s liquor licence and/or requirements of the AGCO. Any violations of these requirements would constitute a violation of the City’s proposed Temporary Outdoor Patio By-law and potentially the provisions of the City’s existing Licensing By-law.

Currently there are 431 Liquor Licenses issued to eating establishments within the City of Vaughan, of which 133 currently include outdoor patios permitted to serve alcohol. There are 1004 eating establishments (965 restaurants and 39 banquet halls) holding a valid Vaughan Eating Establishment Business License within the City.

There are numerous variables that must be considered in developing and determining a reasonable regulatory framework to allow for temporary outdoor patios and the expansion of existing outdoor patios. To mitigate against risk, ensure ease of use by operators, promote public health and safety and minimize time, effort and City resources required for its implementation, staff have determined the following necessary measures must be taken:

- 1) A Temporary Use (Zoning) By-law, amending the City of Vaughan Zoning By-law and the City’s Site Plan control By-law, as may be required, be enacted. The proposed provisions will allow for temporary outdoor patios and the expansion of existing outdoor patios by providing relief to identified performance standards normally required. The relief provisions would be in effect for the duration of the emergency, concluding once the City declared emergency is terminated.
- 2) Specific standards be established through the adoption of a stand-alone Temporary Outdoor Patio By-law that will ensure temporary outdoor patios and expansions meet specific requirements such as but not limited to physical delineation (e.g. curb-stops and fencing), physical distancing, any requirements of the AGCO (where a 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.
- 3) Staff develop and publicize acceptable standards and regulations requiring eating establishments to determine if they meet the criteria and thereby qualify to add and/or expand their patio. This approach is founded on a self-governing model that places the onus on each establishment to self-regulate and ensure voluntary compliance, including the eligibility to establish and outdoor patio where one currently does not exist or expand

an existing outdoor patio where possible. These standards and regulations do not interfere with landlord tenant obligations and/or necessary private commercial insurance requirements.

**Financial Impact:**

There is no identified financial impact stemming from adoption of the recommendations.

**Conclusion**

In response to the direction of Committee of the Whole (2), Item 30. NEW BUSINESS – RESTAURANT PATIO EXPANSION, and in balancing the City's primary focus regarding the wellbeing, health and safety of our citizens, concurrently with the needs of many eating establishment operators in our City to manage through this pandemic, staff believe that the recommendations to proceed with two separate by-laws, namely 1) Temporary Use (Zoning) Patio By-law and 2) Temporary Outdoor Patio By-law, will provide the necessary regulatory framework as outlined within this communication. Staff are of the opinion that these temporary regulations will demonstrably achieve both desired outcomes, while still establishing reasonable controls and regulations that support the greater public wellbeing, health and interests.

Staff are seeking Council's approval of the recommendations as outlined within this communication.

Upon a decision of Council, By-law & Compliance, Licensing & Permit Services will work directly with Corporate and Strategic Communications and all other staff to ensure a timely release of a public service announcement on this new initiative, including ensuring that your offices are provided with necessary communications support, share and promote the decision of Council.

Respectfully,



**GUS MICHAELS**, CMM III, MLE Executive, Property Stds. Professional  
Director & Chief Licensing Officer,  
By-Law & Compliance, Licensing & Permit Services

**Attachments:**      Municipal Comparative Chart

CC:                      Senior Leadership Team

**ATTACHMENT 1**  
**Municipal Scan: Outdoor Patio Expansions**

<b>Municipality</b>	<b>Allowing expansion of patios on right of way with road closures?</b>	<b>Allowing further expansion of restaurant patios on private property?</b>
<b>City of Waterloo</b>	Not planned	No
<b>City of Kawartha Lakes</b>	Not planned	Yes - exploring option.
<b>City of Guelph</b>	Yes, considering closing curb lanes to allow one direction walking on road and sidewalk.	Yes – exploring option.
<b>City of Kitchener</b>	Exploring possibility	Exploring possibility
<b>City of Hamilton</b>	No	Yes. Temporary expansions by application where zoning permits
<b>Niagara on the Lake</b>	Not planned due to parking concerns	Not planned
<b>Town of Newmarket</b>	Not planned	No information available
<b>City of Brampton</b>	Not planned	No information available
<b>City of Ottawa</b>	Temporary closures debated, no clear result	No information available
<b>Toronto</b>	Yes, identified areas and restrictions being established	Under review

<b>Municipality</b>	<b>Allowing expansion of patios on right of way with road closures?</b>	<b>Allowing further expansion of restaurant patios on private property?</b>
<b>Town of Oakville</b>	Not planned	Not planned
<b>Town of Aurora</b>	Not planned	Not planned
<b>Markham</b>	Not planned	Yes - Development Services preparing a report.
<b>Richmond Hill</b>	Not planned	Not planned

**NOTE:** Additional municipalities were surveyed. The above represent respondents and responses received as of Tues May 25, 2020.