

City Council Report

DATE: Wednesday, October 21, 2020

WARD(S): ALL

**TITLE: EXTENSION OF THE TEMPORARY OUTDOOR PATIO
PERMISSIONS**

FROM:

Sunny Bains, Acting Deputy City Manager, Community Services

ACTION: DECISION

Purpose

Staff are seeking approval from Council to extend the temporary outdoor patio permissions granted by Council by various by-laws on June 29, 2020, from the original expiry of November 2, 2020 to a day that is 14 days after the emergency declared in response to the COVID-19 global pandemic has been terminated by the Head of Council.

Report Highlights

- On May 27, 2020, City Council approved a regulatory framework allowing temporary outdoor patios for eating establishments and banquet halls.
- Subsequently, three by-laws were adopted by Council on June 29, 2020, and the permissions contained within same are set to expire on November 2, 2020.
- The initiative was intended to provide relief to businesses in Vaughan in light of the COVID-19 emergency measures imposed by the Province.
- Staff are recommending that the initiative be extended beyond its original November 2nd expiry to allow for qualified eating establishments and banquet halls to continue to operate.

Recommendations

1. THAT an amendment to By-Law 094-2020, being the temporary use by-law to permit Temporary Outdoor Patios, be approved to facilitate an extension of the permissions in accordance with Attachment 1, and other minor amendments;
2. THAT an amendment to By-law 123-2013 as amended by By-law 095-2020, be approved, to continue the exempt Temporary Outdoor Patios from Site Plan Control in accordance with Attachment 2, and other minor amendments;
3. THAT an amendment to By-law 096-2020, being the by-law to provide eligibility criteria, performance standards and other requirements for the establishment of outdoor patios or the expansion of existing outdoor patios that are ancillary to municipally licensed eating establishments and banquet halls, during the declared COVID-19 Emergency, be approved to facilitate an extension of the permissions in accordance with Attachment 3, and other minor amendments; and
4. THAT Staff be authorized to undertake any other actions required to implement the recommendations of this report.

Background

At its meeting of May 20, 2020, Committee of the Whole (“Committee”) directed staff to 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 City of Vaughan continues to implement new measures and programs to support local businesses, entrepreneurs, and consumers while continuing to ensure the wellbeing of all citizens during the global COVID-19 pandemic. Through the direction of Council, staff implemented the necessary processes thereby 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 a safe option of allowing additional outdoor seating capacity. Similarly, a number of other major municipalities in the GTA implemented same or similar initiatives, including the City of Toronto, Markham and other municipalities across York Region.

In Vaughan, there are currently approximately 430 Liquor Licenses issued to eating establishments, of which just over 130 currently include outdoor patios permitted to serve alcohol. There are approximately 1,000 eating establishments (about 960 restaurants and 40 banquet halls) holding a valid Vaughan Eating Establishment Business License within the City. Since the inception of the temporary outdoor patio program, nearly 100 businesses have added or expanded outdoor patios.

Previous Reports/Authority

(Council June 29, 2020, [Item 1, Committee of the Whole, Report No. 30](#))

(Council May 27, 2020, [Item 30, Committee of the Whole, Report No. 20](#))

Analysis and Options

Despite the cooler weather, businesses continue to take advantage of the relief provided by the temporary regulations. As a second wave of the pandemic settles throughout the region, staff anticipate that the same or similar restrictions imposed on the current 'hot spots' such as Toronto, Peel and Ottawa, may be imposed on York Region. Such restrictions could mean the elimination of indoor dining options for restaurants, resulting in great economic challenges for these businesses. As a result, staff believe that the continuance of this initiative is desirable and provides a safer alternative and option for businesses as they attempt to sustain a measure of their business operations.

Staff are proposing to extend the temporary patio initiative to a date of no later than 14 days after the declaration of emergency by the Head of Council is terminated. Staff propose to make this amendment to By-law 096-2020, which sets out eligibility and regulatory requirements, By-law 094-2020, which amended the City's Zoning By-law 1-88 by introducing the temporary use for temporary outdoor patios, and By-law 095-2020 which exempts temporary outdoor patios accessory to Eating Establishments and Banquet Halls from Site Plan Control. Under O. Reg. 345/20, as continued under the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020*, S.O. 2020, c. 17, process and timelines relating to zoning amendments for outdoor patios are currently exempt from sections 39 and subsections 34 (12) to (14.3), (14.5) to (15) and (19) of the *Planning Act R.S.O., 1990*, c. P. 13, and paragraphs 4 and 5 of subsection 6 (9) of Ontario Regulation 545/06 under that Act. As such, Council's decision with respect to the temporary use is not subject to the typical notice requirements for zoning by-laws, and any further amendment to By-law 094-2020 is final and not subject to appeal to the Local Planning Appeal Tribunal.

At the same time, staff will heighten enforcement attention through increased monitoring and compliance-related activities to ensure that eating establishments and banquet halls that avail themselves of the regulatory relief respect the regulatory requirements that relate both to COVID measures and municipal operating requirements to mitigate health, safety and nuisance issues. To this last point, staff are including some technical amendments to By-law 096-2020 to strengthen the language in the by-law with respect to owner obligations and by making it an explicit offence to not comply with an Order from the Chief Licensing Officer.

This report was prepared in consultation with Development Planning, Building Standards, Fire and Rescue Services, Economic and Cultural Development, and Legal Services.

Financial Impact

There are no anticipated financial impacts to the City as a result of the recommendations of this report.

Broader Regional Impacts/Considerations

The recommendations in this report do not have a direct impact on other municipalities, the Region or any of its agencies. However, City staff will continue to work with the City's municipal, regional and agency partners in ensuring the most consistent approach to pandemic-related measures and relief.

Conclusion

As the severity of the pandemic imposes greater challenges for local businesses, staff continue to explore ways to responsibly, and with the greater interest of the public in mind, provide measured relief to local businesses. Staff are of the opinion that the continuance of 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. 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 any related communications on the continuance of this initiative, including ensuring that your offices are provided with necessary communications support material to share and promote the decision of Council.

For more information, please contact: Gus Michaels, Director of By-law and Compliance, Licensing and Permit Services, ext. 8735.

Attachments

1. Amendment to By-law 094-2020, being the 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.
2. Amendment to By-law 123-2013 as amended by By-law 095-2020, to continue to exempt Temporary Outdoor Patios from Site Plan Control.
3. Amendment to By-law 096-2020, being the By-law to provide eligibility criteria, performance standards and other requirements for the establishment of outdoor patios or the expansion of existing outdoor patios that are ancillary to municipally licensed eating establishments and banquet halls, during the declared COVID-19 Emergency.

Prepared by

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Approved by



Sunny Bains,
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Reviewed by



Jim Harnum, City Manager