

Committee of the Whole (1) Report

DATE: Tuesday, September 14, 2021

WARD(S): ALL

TITLE: EXTENSION OF TEMPORARY OUTDOOR PATIOS

FROM:

Gus Michaels, Interim Deputy City Manager, Community Services

ACTION: DECISION

Purpose

To seek approval from City Council to further extend the time frame that temporary outdoor patios may operate, in order to provide regulatory relief and support further economic recovery in the wake of the COVID-19 emergency.

Report Highlights

- Shortly following the emergency declaration in the City of Vaughan, City Council on June 29, 2020, approved a regulatory framework allowing temporary outdoor patios for eating establishments and banquet halls, with an expiry date of November 2, 2020.
- On October 21, 2020 when it became apparent that the COVID-19 emergency would continue indefinitely, City Council approved an extension of the regulatory relief to a date no later than 14 days after the termination of the emergency.
- With the Province having entered Stage 3 of its reopening framework, staff are recommending that temporary outdoor patios continue to operate up to November 30, 2021 or a date no later than 14 days after the termination of the emergency declaration, whichever date is later.
- The proposed expiry will continue the relief if the emergency continues through the autumn and winter months, but will otherwise terminate no later than November 30, if the emergency declaration is terminated before then, so as not to interfere with the parking requirements of other businesses.

Recommendations

1. THAT a further amendment to By-Law 094-2020, as amended, being the temporary use by-law to permit Temporary Outdoor Patios, be approved to allow for the expiry date of said regulation to be on the latter of November 30, 2021 or 14 days after the declaration of emergency has been terminated by the Head of Council;
2. THAT a further amendment to By-law 123-2013 as amended by By-law 095-2020 and 149-2020, be approved, to continue the exempt Temporary Outdoor Patios from Site Plan Control until November 30, 2021 or 14 days after the declaration of emergency has been terminated by the Head of Council;
3. THAT a further amendment to By-law 096-2020, as amended, 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 allow for the expiry date of said regulation to be on the latter of November 30, 2021 or 14 days after the declaration of emergency has been terminated by the Head of Council; 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.

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 160 businesses have added or expanded outdoor patios. Establishment owners must register their patio with the City and meet all of the prescribed requirements; however, there is no fee for the one-time registration.

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](#))

(Council October 21, 2020, [Addendum Item 2](#))

Analysis and Options

Throughout the pandemic, businesses have continued to eagerly take advantage of the regulatory relief, by allowing them to extend or create outdoor patios. As the Province continues to progress its phased-in reopening, staff have considered how to best continue to support eating establishments and banquet halls while accommodating the gradual reopening of other businesses. As it stands currently, under the existing regulations, if the emergency is terminated in the coming weeks, temporary outdoor patios will have to close down within 14 days of that date. Staff are of the opinion that if this is the case, there is still rationale for continuing to allow patios to the end of the season. However, as the weather cools and as the busy holiday shopping season commences, staff believe that the increasing demand for parking in shopping malls and plazas will make temporary outdoor patios less tenable. Of course, if the emergency continues and the Province reverts to shutdowns of varying degrees, there may not be a necessity to end the use of temporary outdoor patios.

As a result, 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 or November 30, 2021 (a Tuesday), whichever is later. The date was chosen because it is two days after the likely busy Halloween weekend and it provides business owners two days to dismantle their outdoor patios. This date was also deemed to be the latest day before the busy holiday shopping season reaches its peak in December.

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.

Staff will continue to provide enforcement attention through increased monitoring and compliance-related activities to ensure that eating establishments and banquet halls that avail themselves of the regulatory relief comply with all relevant COVID measures and municipal operating requirements to mitigate health, safety and nuisance issues.

This report was prepared in consultation with Development Planning, Building Standards, 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 Province moves to reopen and as businesses continue to suffer the impacts of closures and limited operation, 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.

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

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