

Extension to Temporary Use Zoning By-laws for Outdoor Patios Associated with Eating Establishments

Date: January 28, 2022

To: Planning and Housing Committee

From: Chief Planner and Executive Director, City Planning

Wards: All

SUMMARY

At its meeting on November 9, 2021, City Council requested that City Planning report to the Planning and Housing Committee in the first quarter of 2022 on whether to extend the City-wide Temporary Use Zoning By-laws that ease restrictions on outdoor patios on private property. This report responds to the Council direction and recommends an extension to the existing temporary use zoning by-laws, pursuant to Section 39 of the Planning Act, to facilitate outdoor patios associated with eating establishments. These temporary use by-laws regulate outdoor patios on private property only, and are considered to be part of CaféTO program. The CaféTO program is intended to assist the restaurant industry in the economic recovery during and after the COVID pandemic.

The in-effect City-wide Temporary Use By-laws will expire on April 14, 2022. Eating establishments typically prepare and plan for outdoor patios in the first quarter of the year, and providing an extension to the existing by-laws will provide greater certainty to the operators of these establishments. The proposed by-laws complement the rest of the existing CaféTO program which allows expanded patios on City boulevards and rights-of-way.

Two city-wide by-laws are proposed to replace the existing by-laws which would be repealed. One temporary use by-law is an amendment to City-wide Zoning By-law 569-2013, and the second temporary use by-law will address properties that remain subject to the former general zoning by-laws.

The contents of each by-law with respect to the zoning regulations will remain the same. The by-laws will continue to allow an increase to the maximum size of outdoor patios and remove restrictions that might prevent an outdoor patio located in front of a building on private property. The only proposed change to the by-laws is an extension to the expiration date, with a new date of December 31, 2023. This extension would provide additional time for businesses to continue operating outdoor patios under the current

expanded permissions while staff consult with the public and study potential permanent modifications to existing zoning regulations for outdoor patios city-wide.

In addition to the two city-wide temporary use by-laws that modified zoning performance standards for outdoor patios, 15 site-specific temporary use by-laws for patios were also enacted with expiration dates of April 14, 2022. For consistency, 15 site-specific temporary use by-laws with an extension to December 31, 2023 are also proposed as part of this report.

The proposed by-laws are consistent with the Provincial Policy Statement (2020) and conforms with A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019).

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council enact zoning by-law amendments with respect to city-wide and site-specific zoning permissions for outdoor patios substantially in accordance with Attachments 1 to 17.
2. City Council direct the City Solicitor to make such stylistic and technical changes to each zoning by-law amendment as may be required.
3. City Council request the Chief Planner and Executive Director, City Planning to report back to the Planning and Housing Committee by the third quarter of 2023 on potential permanent modifications of zoning regulations for outdoor patios on private property.
4. City Council direct that approval of the outdoor patios located at 592 Gerrard Street East, 1008-1010 Queen Street East, 1118 Queen Street East, 1298 Queen Street East, 106-110 Broadview Avenue, 704 Queen Street East and 3 Hamilton Street and 345 Carlaw Avenue and 1180 Dundas Street East and 100 Indian Road be contingent on the following conditions:
 - a. signage will be posted in a prominent location to remind people to be considerate of the surrounding community;
 - b. the patio be closed at 10:00 p.m. from Sunday to Thursday and 11:00 p.m. from Friday to Saturday;
 - c. a telephone number will be provided for neighbours to register concerns or complaints directly with the operator of the outdoor patio; and
 - d. there will be no outdoor music, performances and dancing, or amplified sound on the patios, and doors and windows to the establishments will not be left open or propped open while there is music or amplified sound in the interior.
5. City Council direct that approval of the outdoor patio at 1012-1018 Gerrard Street East be contingent on the following conditions:

- a. signage will be posted in a prominent location to remind people to be considerate of the surrounding community;
- b. a telephone number will be provided for neighbours to register concerns or complains directly with the operator of the outdoor patio;
- c. there will be no outdoor music or amplified sound on the patio, and doors and windows to the establishment will not be left open or propped open while there is music or amplified sound in the interior; and
- d. the applicant must maintain the seating and occupancy plans for the outdoor patio previously submitted to Toronto Public Health and Municipal Licensing and Standards.

6. City Council direct that approval of the outdoor patio at 95-107 Danforth Avenue, 749 Broadview Avenue and 139-141 Danforth Avenue be contingent on the following conditions:

- a. signage will be posted in a prominent location to remind people to be considerate of the surrounding community;
- b. a telephone number will be provided for neighbours to register concerns or complains directly with the operator of the outdoor patio; and
- c. there will be no outdoor music or amplified sound on the patio, and doors and windows to the establishment will not be left open or propped open while there is music or amplified sound in the interior;

7. City Council direct that approval of the outdoor patio at 401 Logan Avenue be contingent on the following conditions:

- a. signage will be posted in a prominent location to remind people to be considerate of the surrounding community;
- b. the patio be closed at 10:00 p.m. from Sunday to Thursday and 11:00 p.m. from Friday to Saturday; and
- c. a telephone number will be provided for neighbours to register concerns or complains directly with the operator of the outdoor patio;

FINANCIAL IMPACT

The City Planning Division confirms that there are no financial implications resulting from the recommendations included in the report in the current budget year or in future years.

DECISION HISTORY

Existing Temporary CaféTO Program and Transition to a Permanent Program

The Executive Committee at its meeting on June 22, 2020 considered a report titled "CaféTO - Increasing Outdoor Dining Space for Toronto Restaurants and Bars", dated June 8, 2020. The report provided a package of recommendations that collectively paused certain elements of Chapter 742 of the Municipal Code (Sidewalk Cafés, Parklets and Marketing Displays), which sets out a permitting system for sidewalk and curb lane/parklet cafés. The goal of the CaféTO program is to support local restaurants and bars and their employees by allowing the expeditious and wide-spread roll-out of café extensions in the public right-of-way, during an expected period of time when they will be under considerable occupancy constraints.

At its meeting on June 29, 2020, City Council enacted By-law 452-2020, which amended City of Toronto Municipal Code Chapter 742, Sidewalk Cafés, Parklets and Marketing Displays, and City of Toronto Municipal Code Chapter 937, Temporary Closing of Highways to permit sidewalk cafés, curb lane/parklet cafés and public parklets and to permit café extensions as part of the CaféTO program with an expiration date of November 15, 2020.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.EX14.1>

At its meeting on October 27, 2020, City Council enacted By-law 927-2020, which provided an extension of the CaféTO program to April 14, 2021.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.EX17.7>

At its meeting on February 5, 2021, City Council enacted By-law 51-2021 which provided an extension of the CaféTO program to April 14, 2022.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.EX20.6>

At its meeting on November 9, 2021, City Council directed the General Manager, Transportation Services, the Executive Director, Municipal Licensing and Standards and the General Manager, Economic Development and Culture to report back to the Executive Committee by the first quarter of 2023 to establish criteria for a permanent program of CaféTO.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.EX27.10>

Pilot Program for Music and Entertainment on Outdoor Patios Located on Public Rights of Way in Wards 9, 14 and 19

At its meeting on June 8, 2021, City Council authorized the implementation of a pilot project permitting amplified live performances by musicians on patios in the public right of way located within Wards 9, 14 and 19 for implementation in the summer of 2021. City Council directed the Executive Director, Municipal Licensing and Standards to report back to the relevant committee with data and results of the pilot at an appropriate juncture.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.MM34.51>

Regulations Regarding Patios on Private Property

City Council requested, at its meeting on June 29, 2020, that the Minister of Municipal Affairs and Housing provide expanded permissions for patios on private properties with regards to zone restrictions, placement and size. On July 2, 2020, the Province of Ontario issued Ontario Regulation 345/20, which exempts the enactment of a by-law that would authorize the temporary use of land for a restaurant or bar patio under Section 39 of the Planning Act from subsections 34 (12) to (14.3), (14.5) to (15) and (19) of that Act and paragraphs 4 and 5 of subsection 6 (9) of Ontario Regulation 545/06. Ontario Regulation 345/20 permits City Council to adopt temporary use by-laws respecting a restaurant or bar patio without holding a statutory public meeting under the Planning Act and that such a by-law is not subject to appeal.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.EX14.1>

On July 8, 2020, the Province of Ontario issued Ontario Regulation 358/20, being Ministerial Zoning Order to expand zoning permissions for outdoor patios in the City of Toronto, generally consistent with the June 29 and 30, 2020 request of City Council.

<https://www.ontario.ca/laws/regulation/r20345>

At its meeting on October 27, 2020, City Council adopted a final report pertaining to temporary use zoning by-laws to expand permissions for outdoor patios for bars and restaurants pursuant to Section 39 of the Planning Act. The report recommended temporarily easing restrictions for patios on private property as they relate to zone restrictions, placement and size. City Council enacted By-law 906-2020 to temporarily ease restrictions on outdoor patios through zoning regulations that prevail over the former municipal zoning by-laws and By-law 910-2020 to temporarily ease restrictions specified in harmonized city-wide Zoning By-law 569-2013 affecting outdoor patios. By-laws 906-2020 and 910-2020 expired on May 25, 2021.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.PH17.12>

At its meeting on March 10, 2021, City Council provided an extension to the temporary use permission for patios on private property by repealing By-laws 906-2020 and 910-2020 which would have expired on May 25, 2021 and enacting replacement By-laws 197-2021 and 198-2021, which will expire on April 14, 2022.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH21.7>

At its meeting on November 9, 2021, City Council requested the Chief Planner and Executive Director, City Planning to report to the Planning and Housing Committee in the first quarter of 2022 on whether to extend the City-wide Temporary Use Zoning By-laws that ease restrictions on outdoor patios on private property.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.EX27.10>

Site-specific By-laws

At its meeting on July 28, 2020, City Council enacted three site-specific Temporary Use By-laws, 907-2020, 908-2020 and 909-2020, which ease restrictions as they relate to location and the required distance from residential zones for patios associated with eating establishments located at 229 Richmond Street West, 1012-1018 Gerrard Street East and 95-107 Danforth Avenue and 749 Broadview Avenue. These site-specific by-laws permit outdoor patios that would not have otherwise been permitted by the City's zoning by-laws nor by the Minister's Zoning Order. The by-laws had an expiration date of November 25, 2020.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.MM23.27>

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.MM23.34>

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.MM23.35>

At its meeting on October 27, 2020, City Council provided an extension to the three site-specific temporary use by-laws located at 229 Richmond Street West, 1012-1018 Gerrard Street East and 95-107 Danforth Avenue and 749 Broadview Avenue that were enacted at its meeting on July 28, 2020, as part of the report which modified zoning performance standards for patios more generally. The replacement site-specific by-laws expired on May 25, 2021.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.PH17.12>

At its meeting on November 25, 2020, City Council enacted a site-specific Temporary Use By-law, 1063-2020, to ease restrictions as they relate to the location of a patio at 94 The Esplanade, in an effort to support the eating establishment located at 67 Front Street East. The by-law expired on May 25, 2021.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.MM26.14>

At its meeting on December 16, 2020, City Council enacted a site-specific Temporary Use By-law, 1182-2020, to ease restrictions as they relate to required separation from a residential zone at 139-141 Danforth Avenue. The by-law expired on May 25, 2021.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.MM27.28>

At its meeting on March 10, 2021, City Council provided extensions of the temporary use by-laws for outdoor patios located on 229 Richmond Street West, 1012-1018 Gerrard Street East, 95-107 Danforth Avenue, 94 The Esplanade supporting 67 Front Street East and 139-141 Danforth Avenue by repealing By-laws 907-2020, 908-2020, 909-2020, 1063-2020, 1182-2020 and enacting replacement Temporary Use By-laws 199-2021, 200-2021, 201-2021, 202-2021 and 203-2021. These replacement temporary use by-laws will expire on April 14, 2022.

Also at its meeting on March 10, 2021, City Council requested the Chief Planner and Executive Director, to bring forward City-initiated site-specific temporary use by-laws for consideration by City Council, upon request, to provide site-specific zoning relief for outdoor patio proposals located on private property. The request also established criteria for the establishment of City-initiated site-specific temporary use by-laws, including but not limited to Ontario Regulation 345/20 being in effect, sufficient

information being provided by the patio operator, a patio under the CaféTO program not being possible, and consultation with the local Ward Councillor.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH21.7>

At its meeting on May 5, 2021, City Council enacted four Temporary Use By-laws 402-2021, 403-2021, 404-2021 and 405-2021 to ease outdoor patio restrictions as they relate to the required minimum distance from a lot in a residential zone, being on the same lot as the eating establishment it is associated with and permitted maximum area for outdoor patios located at 1118 Queen Street East, 1298 Queen Street East, 1008-1010 Queen Street East, 106-110 Broadview Avenue, 704 Queen Street East and 3 Hamilton Street. These temporary use by-laws will expire on April 14, 2022.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.MM32.37>

At its meeting On June 8, 2021, City Council enacted Temporary Use By-law 416-2021 to ease outdoor patio restrictions as they relate to the required minimum distance between an outdoor patio and a lot in the residential zone and the permitted maximum area for the outdoor patio located at 516 Eglinton Avenue West. This temporary use by-law will expire on April 14, 2022.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.NY24.9>

Also at its meeting on June 8, 2021, City Council enacted Temporary Use By-law 519-2021 to ease outdoor patio restrictions as they relate to the requirement that an outdoor patio must be combined with an eating establishment for the outdoor patio located at 345 Carlaw Avenue and 1180 Dundas Street East. This temporary use by-law will expire on April 14, 2022.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.MM34.34>

At its meeting on July 14, 2021, City Council enacted Temporary Use By-law 639-2021 which eased restrictions for outdoor patios as they relate to an outdoor patio not being permitted in the residential zone for the outdoor patio located at 100 Indian Road. This temporary use by-law will expire on April 14, 2022.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.MM35.25>

Also at its meeting on July 14, 2021, City Council enacted Temporary Use By-law 686-2021 which eased restrictions for outdoor patios as they relate to the requirement that an outdoor patio must be on the same lot as the eating establishment it is associated with for 401 Logan Avenue. This temporary use by-law will expire on April 14, 2022.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.MM35.46>

Also at its meeting on July 14, 2021, City Council enacted Temporary Use By-law 692-2021 which eased restrictions for outdoor patios as they relate to the requirement that an outdoor patio must be on the same lot as the eating establishment it is associated with and the required minimum distance from a lot in the residential zone for the outdoor patio located at 592 Gerrard Street East. This temporary use by-law will expire on April 14, 2022.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.MM35.52>

Also at its meeting on July 14, 2021, City Council enacted Temporary Use By-law 685-2021 which eased restriction for outdoor patios as they relate to an outdoor patio not

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being permitted in a parking lot and the requirement that an outdoor patio be combined with one restaurant for the outdoor patio located at 25 The West Mall (CF Sherway Gardens Mall). This temporary use by-law also amended By-law 198-2021, as it relates to the easing of restrictions for all outdoor patios located in areas subject to former municipal by-laws, to clarify permitted maximum size requirements. This temporary use by-law will expire April 14, 2022.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.MM35.45>

PROPOSAL

New temporary use by-laws are proposed to replace the existing by-laws that will expire on April 14, 2022. The purpose of the by-laws remains the same, which is to ease restrictions on outdoor patios located on private property associated with eating establishments. No new or modified standards are contained in the by-laws, and only the expiry date will change. The proposed by-laws specify a new expiration date of December 31, 2023.

An extension to December 31, 2023 offers stability and opportunities for recovery to the hard-hit restaurant sector, providing two patio seasons in each of 2022 and 2023 with eased regulations. Supporting businesses through recovery will be critical even after the current pandemic ends. In addition, an extension to December 31, 2023 provides staff sufficient time to undertake a review of outdoor patio regulations city-wide, and consider whether any permanent changes are appropriate.

Staff are also proposing extensions to the 15 site-specific temporary use by-laws, which eased restrictions on outdoor patios on private property. These by-laws will expire on April 14, 2022. A new expiration date of December 31, 2023 is proposed.

BACKGROUND

Existing CaféTO Program and Transition to a Permanent Program

The existing CaféTO program provides space for expanded outdoor dining areas to help eating establishments which were impacted by COVID-19. The program provides more outdoor dining areas to assist with physical distancing requirements for patrons on patios. The existing CaféTO program accommodates patios on sidewalks and curb lanes within the municipal right-of-way. The temporary use by-laws proposed for patios on private property, have recently been brought under the CaféTO program.

By-law 452-2020 was enacted by City Council on June 29, 2020. The by-law amended Chapter 742 and 937 of the Municipal Code to form the basis of the current CaféTO program which was set to expire November 15, 2020. By-law 927-2020 provided an extension of this program to April 14, 2021.

Item EX20.6 titled "CaféTO and CurbTO - Pandemic Response Programs", which was adopted by City Council on February 5, 2021, recommended an extension of the

program to permit sidewalk cafés to April 14, 2022 and to permit curb lane/parklet cafés until November 10, 2021.

Due to the success of the program, City Council approved, in principle, establishing a permanent CaféTO program. Item EX 27.10 titled "CaféTO and Beyond", which was adopted by City Council on November 9, 2021, directed staff to establish criteria for a permanent program of CaféTO curb lane/parklet cafés and enacted By-law 926-2021, thereby authorizing the CaféTO program until November 7, 2022 and to otherwise streamline the permit process for sidewalk cafés.

Zoning Regulations for Patios on Private Property

Outdoor patios on private property are regulated by zoning. City-wide Zoning By-law 569-2013 includes regulations that consider outdoor patios not to be primary land uses, but rather ancillary to eating establishments (among other uses) and generally subordinate to indoor space. Zoning permissions for outdoor patios are limited to many (but not all) zones where eating establishments and take-out eating establishments are permitted. For most zones, regulations limit the maximum size of an outdoor patio to 30 square metres or 30 per cent of the interior floor area of the associated establishment, whichever is greater. In addition to the size limitation, zoning regulations manage the potential impact of the patio on nearby residential properties through setback requirements, rear-yard fencing requirements, a prohibition on entertainment, and limitations on outdoor patios located above the first storey (e.g. rooftop patios). The current performance standards for outdoor patios found in City-wide Zoning By-law 569-2013 were informed by best practices in the former general zoning by-laws, and are intended to limit potential impacts of the use on adjacent properties.

Patios located on Privately Owned Publicly-Accessible Spaces (POPS) are also regulated by zoning. POPS are also typically secured through legal agreements registered on title of the subject property, which may restrict the use of a POPS for a private outdoor patio, notwithstanding zoning permissions.

Temporary Use By-laws

Section 39 of the Planning Act provides authority to municipalities to pass temporary use by-laws. A temporary use by-law is a zoning by-law to authorize the temporary use of land, buildings or structures for any purpose that is otherwise prohibited by the municipality's zoning. A temporary use by-law must define the area to which it applies and specify the time period in which it will be in force.

Existing Temporary Use By-laws

City-wide Temporary Use By-laws 197-2021 and 198-2021 (as amended by By-law 685-2021) ease restrictions for patios located on private property associated with eating establishments, take-out eating establishments, and recreation uses with regard to zone restrictions, placement and size.

Site-specific By-law 199-2021 permits an outdoor patio at 95-107 Danforth Avenue and 749 Broadview Avenue, which does not otherwise comply with the setback requirement from nearby properties in a residential zone.

Site-specific By-law 200-2021 permits an outdoor patio at 229 Richmond Street West, which would otherwise not be permitted because the eating establishments which operate the outdoor patio are not located on the same property.

Site-specific By-law 201-2021 permits an outdoor patio at 1012-1018 Gerrard Street East, which would otherwise not be permitted because the eating establishment which operate the patio are not located on the same property. In this case, the outdoor patio is available for use by establishments on Gerrard Street East between Marjory Avenue and Jones Avenue.

Site-specific By-law 202-2021 permits an outdoor patio at 94 The Esplanade to support the eating establishment at 67 Front Street East, which would otherwise not be permitted because the eating establishment which operates the patio is not located on the same property.

Site-specific By-law 203-2021 permits an outdoor patio at 139-141 Danforth Avenue, which does not otherwise comply with the setback requirements from nearby properties in a residential zone.

Site-specific By-law 402-2021 permits an outdoor patio at 1118 Queen Street East, which does not otherwise comply with the setback requirements from nearby properties in a residential zone.

Site-specific By-law 403-2021 permits an outdoor patio at 1298 Queen Street East, which does not otherwise comply with the setback requirements from nearby properties in a residential zone.

Site-specific By-law 404-2021 permits an outdoor patio at 106-110 Broadview Avenue, 704 Queen Street East, and 3 Hamilton Street, which would otherwise not be permitted because the eating establishment which operates the patio are not located on the same property. The outdoor patio located off-site at 3 Hamilton Street supports the premises at 106-110 Broadview Avenue and 704 Queen Street East, and this outdoor patio does not otherwise comply with the setback requirements from nearby properties in a residential zone.

Site-specific By-law 405-2021 permits the existing outdoor patio at 1008-1010 Queen Street East to partially expand to 1012 Queen Street East, which does not otherwise comply with the requirement that an outdoor patio be on the same lot as the eating establishment it serves.

Site-specific By-law 461-2021 permits an outdoor patio at 516 Eglinton Avenue West, which does not otherwise comply with the setback requirements from nearby properties in a residential zone.

Site-specific By-law 519-2021 permits an outdoor patio at 345 Carlaw Avenue and 1180 Dundas Street East, which does not otherwise comply with the former City of Toronto By-law 438-86 requirement that an outdoor patio in an Industrial District be combined with a restaurant or take-out restaurant. In this case, the outdoor patio is combined with a place of assembly.

Site-specific By-law 639-2021 permits an outdoor patio at 100 Indian Road located in the Residential Zone, which does not otherwise permit outdoor patios.

Site-specific By-law 685-2021 permits an outdoor patio at 25 The West Mall, otherwise known as CF Sherway Gardens, which does not otherwise comply with the former City of Etobicoke Zoning Code requirement that an outdoor patio be combined with one restaurant. In this case, the outdoor patio serves several restaurants in the mall.

Site-specific By-law 686-2021 permits an outdoor patio at 401 Logan Avenue which would otherwise not be permitted as an outdoor patio is required to be combined with an eating establishment on the same lot. This outdoor patio is intended to be an off-site eating area for the use of the nearby Crow's Nest Theatre.

Site-specific By-law 692-2021 permits an outdoor patio at 592 Gerrard Street East, which does not otherwise comply with the requirement that an outdoor patio be on the same lot as the eating establishment it serves. In this case, this outdoor patio is available for use by eating establishments located on the north side of Gerrard Street East between Broadview Avenue and Boulton Avenue.

Prior to their adoption, Community Planning staff reviewed each temporary patio proposal with regards to the suitability in relation to their community context. There have been minimal complaints with the site-specific patios, and Councillors offices have been consulted on their proposed extensions.

These by-laws will expire on April 14, 2022.

COMMENTS

Need for Extension

The purpose of the proposed by-laws is to assist eating establishments in their planning for outdoor patios beyond April 14, 2022. Preparation for outdoor patios typically occurs in the first quarter of the year, and establishing a new expiration date of December 31, 2023 will provide this hard-hit sector with certainty for two patio seasons. The restrictions in place due to the COVID-19 pandemic may persist well into 2022, and in the event all public health restrictions limiting the ability of establishments to operate are lifted, the temporary use by-laws will also be in place to assist with the economic recovery of the sector.

Review of Existing Patio Regulations

During the proposed extension period for the temporary use by-laws, staff will comprehensively review existing zoning regulations for outdoor patios, evaluate the impact of the easing of regulations established by the temporary by-laws, and consider if any changes should be implemented permanently on a city-wide basis. This will include review of the existing prohibition of entertainment on outdoor patios. Staff will consult with other affected City divisions, including Municipal Licensing and Standards regarding investigation of complaints and enforcement activity on outdoor patios on private property during this time. Staff will also consult with members of the public, business owners, and other identified stakeholders with regards to any potential changes to the zoning by-law.

Consultation

Ontario Regulation 345/20 under the Reopening Ontario (A Flexible Response to COVID-19) Act, 2020, exempts municipalities from the requirement to hold a statutory public meeting for the purpose of enacting a temporary use by-law for outdoor patios. However, in making their decision with regard to the extension of the temporary use by-laws, Committee members will have the opportunity to review written submissions and hear deputations, should they be made, at the Planning and Housing Committee meeting on February 15, 2022.

Public consultation is proposed as part of the review of existing outdoor patio regulations, as described in the "Review of Existing Patio Regulations" section above.

Conclusion

The restaurant sector has been particularly hard hit by the COVID-19 pandemic. The existing temporary use by-laws which provide relief from some zoning regulations for patios on private property will expire on April 14, 2022. To allow for greater certainty, assist eating establishments with planning, and aide in the post-pandemic recovery of the industry, it is necessary to introduce new temporary use by-laws with a new expiration date. No changes to the existing relief from performance standards for patios is proposed. The only change in the proposed by-laws is a new expiration date of December 31, 2023. The by-laws complement the rest of the existing CaféTO program by providing opportunities for new or expanded patios associated with eating establishments.

City Planning is also recommending an extension to the 15 site-specific temporary use by-laws that will expire on April 14, 2022. This will provide the same level of certainty for business operators to plan for continued patio operations. The proposed expiration date is also December 31, 2023.

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SIGNATURE

Gregg Lintern, MCIP, RPP
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City Planning Division

ATTACHMENTS

- Attachment 1: Draft Temporary Use By-law (Zoning By-law 569-2013)
- Attachment 2: Draft Temporary Use By-law (former general zoning by-laws)
- Attachment 3: Draft Temporary Use By-law (95-107 Danforth Avenue and 749 Broadview Avenue)
- Attachment 4: Draft Temporary Use By-law (229 Richmond Street West)
- Attachment 5: Draft Temporary Use By-law (1012-1018 Gerrard Street East)
- Attachment 6: Draft Temporary Use By-law (67 Front Street East and 94 The Esplanade)
- Attachment 7: Draft Temporary Use By-law (139-141 Danforth Avenue)
- Attachment 8: Draft Temporary Use By-law (1118 Queen Street East)
- Attachment 9: Draft Temporary Use By-law (1298 Queen Street East)
- Attachment 10: Draft Temporary Use By-law (106-110 Broadview Avenue, 704 Queen Street East, and 3 Hamilton Street)
- Attachment 11: Draft Temporary Use By-law (1008-1010 Queen Street East)
- Attachment 12: Draft Temporary Use By-law (516 Eglinton Avenue West)
- Attachment 13: Draft Temporary Use By-law (345 Carlaw Avenue and 1180 Dundas Street East)
- Attachment 14: Draft Temporary Use By-law (100 Indian Road)
- Attachment 15: Draft Temporary Use By-law (25 The West Mall - CF Sherway Gardens)
- Attachment 16: Draft Temporary Use By-law (401 Logan Avenue)
- Attachment 17: Draft Temporary Use By-law (592 Gerrard Street East)