

Review of Zoning Regulations for Outdoor Patios on Private Property

Date: October 6, 2023

To: Planning and Housing Committee

From: Chief Planner and Executive Director, City Planning

Wards: All

SUMMARY

This report recommends the adoption of Zoning By-law amendments to permanently expand a range of permissions for outdoor patios on private property. The proposed Zoning By-law amendments are intended to assist businesses with economic recovery during and after the COVID pandemic, increase dining options, provide greater activation of the public realm and increase opportunities for people to socialize, while setting conditions and regulations that manage the potential impacts of outdoor patios on nearby properties.

The recommended Zoning By-law amendments reflect feedback received through public consultations, discussions with relevant City Divisions, and research across other municipalities. The proposed Zoning By-law amendments respond to the City Council request to report back to the Planning and Housing Committee on permanent modifications to the Zoning By-law for outdoor patios on private property to replace the existing temporary use by-laws that will expire on December 31, 2023. The proposed Zoning By-law amendments are for outdoor patios on private property only and complement the Caf  TO program which allows expanded patios on City boulevards and rights-of-way.

Two permanent City-wide by-laws are proposed to replace the existing temporary by-laws. One by-law is an amendment to City-wide Zoning By-law 569-2013, and the other by-law will address properties that remain subject to the Former General Zoning By-laws.

The City-wide by-laws will propose to maintain permissions granted on a temporary basis and include expanding the permitted maximum outdoor patio area, permitting outdoor patios in the Commercial Local (CL) Zone, expanded Industrial Zone category permissions and permitting outdoor patios in parking lots. The City-wide by-laws also propose new permissions, and these include permitting outdoor patios in the Residential

Apartment Commercial (RAC) Zone, permitting limited entertainment, a reduced distance requirement from the Residential and Residential Apartment Zone categories for certain zones, permitting a retail store as a permitted combined use and technical amendments as required.

The proposed amendments address potential noise and visual privacy impacts by maintaining appropriate distances from the Residential and Residential Apartment Zone categories and requiring the installation of a fence parallel to these areas, maintaining a size restriction based on the indoor premises it is combined with and by continuing to prohibit entertainment on lands that are designated *Neighbourhoods* and *Apartment Neighbourhoods* where outdoor patios will be introduced as a new use (the RAC Zone) and where the temporary permission will be made permanent (the CL Zone).

In addition to the two City-wide by-laws, site-specific by-laws are proposed where relief from the requirements of the Zoning By-law, including proposed amendments, are still required.

The proposed Zoning By-law amendments conform with the Official Plan, 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 Chief Planner and Executive Director, City Planning recommends that:

1. City Council enact Zoning By-law amendments with respect to permanent city-wide and site-specific zoning permission for outdoor patios substantially in accordance with Attachments 1 to 6.
2. City Council enact the Zoning By-law amendment with respect to an extension of the temporary use of 229 Richmond Street West as an outdoor patio substantially in accordance with Attachment 7.
3. City Council direct the City Solicitor to make such stylistic and technical changes to each Zoning By-law amendment as may be required.

FINANCIAL IMPACT

The City Planning Division confirms that there are no financial implications resulting from the recommendations included in this report in the current budget year or in future years. The Chief Financial Officer and Treasurer has reviewed this report and agrees with the information as presented in the Financial Impact Section.

EQUITY IMPACT STATEMENT

The city is home to many equity-seeking groups including Aboriginal Peoples, women, immigrants and refugees, racialized communities, persons with disabilities, LGBTQ2S communities, youth, persons with low income and undocumented Torontonians. Each equity-seeking group faces barriers that prevent them from fully contributing to and participating in the social, cultural, economic and political life of the city and from accessing the benefits that are available to others.

A lack of employment, maintaining secure employment, or discrimination in employment is a particular barrier for women, persons with low income, Aboriginal Peoples, immigrants, refugees, undocumented individuals, persons with disabilities, racialized communities and youth. The recommendations in this report propose to expand permissions for outdoor patios, which is an extension of the permitted indoor business. Providing more opportunities for business owners and operators to expand their business may result in more employment opportunities for these groups, as well as reducing barriers to create more opportunities for community spaces. The recommendations of this report may facilitate social networks and supports, as outdoor dining provides more spaces to socialize in different parts of the city.

A lack of accommodation is a particular barrier for persons with disabilities. This report recommends outdoor patios be permitted in the Residential Apartment Commercial (RAC) Zone, with the condition that a minimum pedestrian walkway be maintained. This requirement will assist in maintaining existing pedestrian walkways around apartment buildings to accommodate persons with disabilities to utilize outdoor patios.

DECISION HISTORY

A summary of the Council and Committee decisions with respect to City-wide zoning regulations for outdoor patios on private property, site-specific zoning regulations for outdoor patios on private property and related CaféTO decisions for outdoor patios located in the public right-of-way can be found in Attachment 8.

RECOMMENDED PROPOSAL

Staff recommend maintaining the previously adopted, city-wide, temporary use permissions on a permanent basis as they relate to maximum area, permissions in the Commercial Local (CL) Zone, permission to occupy certain parking spaces, and relaxed industrial zone regulations.

As a result of this review and public consultations, staff also recommend additional changes, including: permitting outdoor patios in the Residential Apartment Commercial

(RAC) Zone; allowing limited entertainment on outdoor patios; reducing required distance from residential zones in certain commercial zone categories; expanding permitted use combinations; permitting outdoor patios on abutting lots; and technical amendments as required.

Where relief from the Zoning By-law is still required on individual sites, staff recommend making permanent certain temporary site-specific outdoor patio permissions as further described in this report.

BACKGROUND

Temporary Use By-laws and COVID-19

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 use of land, buildings or structures where they would otherwise be prohibited by a zoning by-law. A temporary by-law must define the area to which it applies and may be in effect a maximum of three years from the date of the passing of the by-law. City Council may also authorize three-year extensions of temporary by-laws.

In response to the COVID-19 pandemic and the closure of indoor dining, City Council rapidly created the CaféTO program, and requested the Minister of Municipal Affairs and Housing to provide expanded permissions for patios on private property with such permissions being in effect until November 16, 2020. City Council requested the temporary permissions to allow outdoor patios in zones where eating establishments were permitted but not outdoor patios, reduce restrictions in Employment Industrial Zones, allow outdoor patios to occupy parking spaces, and to increase the permitted maximum area from 30 percent of an establishment's interior floor area to 50 percent.

On July 8, 2020, The Province of Ontario issued Ontario Regulation 345/20 titled "Reopening Ontario (A Flexible Response to Covid-19) Act, 2020" which permitted the City to enact temporary use by-laws under Section 39 of the *Planning Act* without the requirement to hold a public meeting and without the opportunity for those by-laws to be appealed.

On October 27, 2020, City Council enacted the first city-wide temporary use by-laws expanding opportunities for outdoor patios reflecting the same permissions requested from the Province of Ontario earlier that year. City Council also enacted site-specific temporary use by-laws where relief from the Zoning By-law was still required despite the city-wide temporary use by-laws being enacted. City Council has since provided several extensions to these by-laws.

On March 9, 2022, City Council requested staff in City Planning to report back to the Planning and Housing Committee on potential permanent modifications to the Zoning By-law for outdoor patios on private property. City Council also enacted several site-specific temporary by-laws for outdoor patios that still did not comply with the city-wide

Zoning By-law amendments. Based on the proposed recommendations of this report, some of these site-specific outdoor patios will still require relief from the Zoning By-law.

All city-wide and site-specific temporary use by-laws for outdoor patios will expire on December 31, 2023.

On April 27, 2022, Ontario Regulation 345/20, which had permitted the City to enact temporary use by-laws under Section 39 of the *Planning Act* without the requirement to hold a public meeting and without the opportunity for those by-laws to be appealed, was revoked. This means that all city-wide and site-specific by-laws, including those related to outdoor patios, whether they are permanent or temporary, require a public meeting and these by-laws may be appealed to the Ontario Land Tribunal.

Existing Temporary use By-laws

Two city-wide temporary use by-laws (236-2022 and 237-2022) ease restrictions for patios located on private property associated with eating establishments, take-out eating establishments, and recreation uses regarding zone restrictions, placement and size. These by-laws will expire on December 31, 2023.

In addition to the City-wide by-laws, City Council has adopted a number of site-specific temporary use by-laws to grant additional permissions for outdoor patios based on the unique circumstances of individual properties:

- Site-specific By-law 234-2022 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 235-2022 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 239-2022 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 242-2022 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 248-2022 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 249-2022 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 241-2022 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 does not otherwise comply with the setback requirements from nearby properties in a residential zone.
- Site-specific By-law 247-2022 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 245-2022 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 243-2022 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 240-2022 permits an outdoor patio at 100 Indian Road located in the Residential Zone, which does not otherwise permit outdoor patios.
- Site-specific By-law 238-2022 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 244-2022 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 246-2022 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 site-specific temporary patio proposal with regards to the suitability in relation to their community context. These by-laws will expire on December 31, 2023.

Contribution of Outdoor Patios to an Active Public Realm and Economic Development

Outdoor patios on private property are one of three options the City permits for outdoor dining. During the pandemic many and differing regulations regarding the three options – private patios, sidewalk cafes and on-street dining (aka CaféTO) - were expanded in response to the closing of indoor restaurant space and protecting jobs during a very challenging time for the hospitality industry.

One of the positive outcomes of this situation was the transformative impact that the outdoor dining programs had on city streets and areas. While each of these programs are subject to different regulations, together they have contributed to making Toronto a great city for outdoor dining.

Food trucks, festivals, outdoor patios on parking spaces, rear yard patios and curb lane cafes are some of the growing number of ways that Torontonians and visitors enjoy and explore Toronto's outdoor food scene. Outdoor dining programs create spaces for communities to gather and celebrate local culture.

CaféTO - Outdoor Patios on Public Property

The existing CaféTO program provides space for expanded outdoor dining for restaurants on sidewalks and curb lanes within the public right-of-way. The program was introduced in 2020 to temporarily support restaurants and bars impacted by COVID-19 by providing more outdoor dining areas when public health restrictions were in place.

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. Similar extensions and modifications were made to the program over the past few years, and most recently in 2023, City Council made CaféTO a permanent program.

Pilot to Permanent Program for Amplified Live Music on CaféTO Patios

In June 2021, City Council directed staff to develop and implement a pilot program for amplified live performances by musicians on patios in the public right of way located within Wards 9, 14 and 19, and shortly thereafter expanded it to also include Wards 4, 10, 11, 13 and 21. Staff reviewed the results of the pilot program and concluded that there were substantial positive benefits for businesses and musicians without excessive music-related complaints.

On February 7, 2023, City Council made the elements of the pilot program (e.g., live music) permanent and expanded it City-wide. The program runs from May through November and is only permitted within scheduled times from Thursdays to Sundays.

POLICY AND PLANNING FRAMEWORK

Planning Act

Section 2 of the *Planning Act* establishes matters of provincial interest to which the City shall have regard to, including 1) the adequate provision of employment opportunities, 2) the orderly development of safe and healthy communities, 3) the protection of the financial and economic well-being of the Province and its municipalities, 4) the appropriate location of growth and development, 5) the promotion of development that is designed to be sustainable, to support public transit and to be oriented to pedestrians, and 6) the promotion of built form that is well designed, encourages a sense of place, and provides for public spaces that are of high quality, safe, accessible, attractive and vibrant.

Provincial Policy Statement (2020)

At the time of writing this report, The Provincial Policy Statement (2020) ("PPS" herein) is in effect and provides policy provincial-wide direction on matters of provincial interest on land use planning and development to promote strong healthy communities, wise use and management of resources, and the protection of public health and safety.

Section 1 of the PPS: "Building Strong Healthy Communities" establishes policy for long-term prosperity, environmental health and social well-being in relation to efficient land use planning. The section contains policies to ensure land use planning sustains financial well being of the Province and its municipalities, to create an appropriate mix and range of employment, institutional, and broader mixed uses to meet long-term needs and to plan for public spaces that area safe and foster social interaction.

The Ministry of Municipal Affairs and Housing has introduced a proposed change to the Growth Plan (2020) and the Provincial Policy Statement (2020), to combine these provincial policy documents into a single policy instrument, the Provincial Planning Statement. The outcome and policy implications of this initiative will not be known until the Fall of 2023.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020)

The Growth Plan for the Greater Golden Horseshoe (2020) ("Growth Plan" herein) provides a strategic policy framework for managing growth and development while supporting economic prosperity, protecting the environment, and helping communities

achieve a high quality of life within the Greater Golden Horseshoe, of which the City of Toronto forms an integral part.

The Growth Plan describes "complete communities" as "Places such as mixed-use neighbourhoods or other areas within cities, towns, and settlement areas that offer and support opportunities for people of all ages and abilities to conveniently access most of the necessities for daily living, including an appropriate mix of jobs, local stores, and services, a full range of housing, transportation options and public service facilities. Complete communities are age-friendly and may take different shapes and forms appropriate to their contexts." Outdoor patios form a part of complete communities.

Section 2.2.1 of the Provincial Growth Plan describes the application of the Plan's policies to support the achievement of complete communities, including providing a diverse mix of land uses, improving social equity and overall quality of life and providing for and expanding access to a vibrant public realm.

The Growth Plan builds upon the policy foundation provided by the PPS and provides more specific land use planning policies to address issues facing the GGH region. In accordance with Section 3 of the *Planning Act* all decisions of Council in respect of the exercise of any authority that affects a planning matter shall conform to the Growth Plan.

At the time of drafting this report, the Growth Plan (2020) remains as a relevant provincial plan, to which it is necessary to have Official Plan policies and Zoning By-law regulations conform. The Ministry of Municipal Affairs and Housing has introduced a proposed change to the Growth Plan (2020) and the Provincial Policy Statement (2020), to combine these provincial policy documents into a single policy instrument, the Provincial Planning Statement.

City of Toronto Official Plan (2006)

The City of Toronto Official Plan establishes the urban structure of the city, policies to guide decision making based on the Plan's goals for the human, built, economic and natural environments, and establishes land use designations and implementation methods. The plan is founded on a growth management strategy which steers growth and change to some parts of the city, while generally protecting others from more significant change.

Chapter two lays out the structure of growth in the city into the *Downtown, Centres, Avenues and Employment Areas*, as shown on Map 2- Urban Structure. These four areas make up the bulk of where outdoor patios are currently permitted.

The *Downtown, Centres, and Avenues* are designated both *Mixed Use Areas* and *Regeneration Areas*. Policy 4.5(1) permits a full range of commercial uses, including eating establishments and outdoor patios in *Mixed Use Areas*. Expanding outdoor patio permissions in these areas may increase economic opportunities for business owners and operators by permitting an expanded outdoor patron area.

Regeneration Areas are areas that are in transition, usually from one predominant land use to one that includes a wide range of new uses. Policy 4.7(1) permits for a broad range of uses that will revitalize areas of the City that are largely vacant or underused. Expanding outdoor patio permissions on these lands shares the same potential as *Mixed Use Areas* in providing expanded business opportunities and the potential to increase the quality of the public realm.

Policy 2.2.4(2) outlines the direction of *Employment Areas* to be used exclusively for business and economic activities in order to provide work opportunities for residents of nearby neighbourhoods.

Employment Areas are further delineated as *Core Employment Areas* and *General Employment Areas* in the Official Plan. *Core Employment Areas* are typically located in the interior of *Employment Areas* and are generally intended for heavier industrial and services uses. *General Employment Areas* are typically located on the exterior of *Employment Areas* along major streets. In addition to the permitted use in *Core Employment Areas*, *General Employment Areas* permit restaurants, and all types of retail and service uses.

Policy 2.2.4(4) directs *Employment Areas* to be enhanced to ensure they are attractive and function well, through actions such as promoting a high quality public realm and creating comfortable streets and sidewalks. Making permanent the expanded temporary outdoor patio permissions, including permitted an outdoor patio to occupy the front yard, may enhance the public realm and provide more open spaces for workers.

Outdoor patios located on *Avenues* may be located in close proximity to lands designated as *Neighbourhoods* which are low rise and low density residential areas. Policy 2.3.1(3) directs that development in *Mixed Use Areas*, *Regeneration Areas* and *Apartment Neighbourhoods* that are adjacent or close to *Neighbourhoods* will be compatible with those *Neighbourhoods*. In addition, the Official Plan directs development to maintain adequate light and privacy for residents in those *Neighbourhoods*. Outdoor patios will continue to maintain appropriate setback requirements from lots in the Residential and Apartment Zone categories.

Policy 2.3.1(10) provides for local commercial needs to be met within or in close proximity to *Neighbourhoods*. This includes small-scale commercial uses which are encouraged at grade in apartment buildings on major streets shown on Map 3 in *Neighbourhoods*, and in *Apartment Neighbourhoods*, to better serve area residents, particularly in areas where residents do not have convenient walking access to a wide range of goods, services and community facilities. Permanent permissions for outdoor patios in the Commercial Local (CL) Zone and in the Residential Apartment Commercial (RAC) Zone align with the goal of providing small-scale commercial uses in these land use designations.

Policy 4.2.1 provides direction for *Apartment Neighbourhoods* which are made up of apartment buildings and parks, local institutions, cultural and recreational facilities, and small-scale retail, service and office uses that serve the needs of area residents.

Policy 4.2(2)(g) permits development in *Apartment Neighbourhoods* that will contribute to the quality of life by providing ground floor uses that enhance the safety, amenity and animation of adjacent streets and open spaces. Permitting outdoor patios in *Apartment Neighbourhoods* is a logical complement to an eating establishment and the presence of outdoor patios may enhance the safety, amenity and animation of adjacent streets and open spaces.

Policy 4.3.1 provides direction for *Parks and Open Space Areas* which are made up parks and open spaces, valleys, watercourses and ravines, portions of the waterfront, golf courses and cemeteries that comprise a *Green Space System* in Toronto.

Policy 4.3.2 generally prohibits development within *Parks and Open Space Areas* except for recreational and cultural facilities, public transit and essential public works and utilities where supported by appropriate assessment.

Zoning By-laws

City-wide Zoning By-law 569-2013 applies to most of the City of Toronto. As some lands are not covered by Zoning By-law 569-2013, other comprehensive zoning by-laws from former municipalities remain in effect on some lands in the city.

Outdoor patios are not permitted as a stand-alone use, but rather ancillary to another principal use (e.g., an eating establishment) and are required to be smaller than the principal use. Outdoor patios are currently permitted in mixed use zones, open space zones and some employment industrial zones. For most zones, outdoor patios must be combined with an eating establishment or take-out eating establishment. Whereas the Commercial Residential (CR) Zone also permits an outdoor patio with an amusement arcade, cabaret, entertainment place of assembly, nightclub, place of assembly, recreation use and sports place of assembly.

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 of noise and visual privacy impact of the outdoor patio on nearby residential properties through setback requirements, rear-yard fencing requirements, a prohibition on entertainment such as performances music and dancing, and limitations on outdoor patios located above the first storey (like 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.

The Former General Zoning By-laws have regulations that are consistent with City-wide Zoning By-law 569-2013 but have a few notable variations. In former City of North York By-law 6752, lighting is required to be oriented directly onto the outdoor patio (as does

the Etobicoke Zoning Code) and expressly cannot occupy required parking spaces. Former City-of Toronto Zoning By-law 438-86 permitted a distance of 10 metres between an outdoor patio and a residential zone. Former City of Scarborough Employment Zoning By-laws did not expressly prevent outdoor patios, but also did not define them as a use and effectively prohibited them by requiring all uses, such as a restaurant use, to be entirely located within a building.

Outdoor 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.

COMMENTS

Public Consultation on City-wide Permissions

Two virtual public consultation sessions were held on April 24 and 27, 2023, for the public and businesses to learn more about potential changes and to share their opinion.

An online survey was also available from April 4, 2023 to May 6, 2023. 659 people completed responses to the survey, and 18 people participated in the virtual consultations.

Social and Community Opportunities

Participants described outdoor patios as places that provide an opportunity to socialize with friends and family, encourage more local active travel and less reliance on driving to other locations and places that have the ability to soften the aesthetic of strip malls and other vehicle-oriented shopping plazas.

Several respondents expressed that outdoor patios are an important place for them to feel safer from COVID-19 and other respiratory illnesses. They cited the positive benefits of good ventilation in these spaces.

Participants of the virtual consultation session expressed the need for outdoor patios to be able to accommodate structures to provide shelter from the wind or snow during the winter season.

Permitted Maximum Size

There was a strong positive response to maintaining the temporary increase to the permitted maximum size of outdoor patios from a maximum of 30 percent of the indoor premises it is combined with up to a maximum of 50 percent. 75 percent of survey respondents approved expanding the maximum space. Likewise, participants did not find it necessary to limit outdoor patios in industrial zones to a maximum of 20 percent of the front yard, with 78 percent of respondents stating this requirement should be removed.

Outdoor Patio in the RAC and CL Zones

There was also a strong positive response to maintaining the temporary introduction of outdoor patios as a permitted use in the Commercial Local (CL) Zone and as a new permitted use in the Residential Apartment Commercial (RAC) Zone. Survey respondents approved this at a rate of 91 percent and 86 percent respectively. When commenting on the RAC zone specifically, participants expressed concern about maintaining existing pedestrian walkways around apartment buildings and suggested restricting hours of operation as a condition.

Entertainment on Outdoor Patios

There was a mixture of support, concern and opposition for entertainment, such as performances, music, and dancing on outdoor patios. 68 percent of survey respondents approved permitting it, 24 percent did not approve, and 8 percent were unsure. Supportive comments generally relate to having more exciting places to be, supporting live music and creating a more active public realm. Opposing or concerned comments were about the effects of noise on adjacent neighbourhoods. There was significant interest in restricting hours of operation for entertainment uses. Hours of operation cannot be regulated by zoning regulations. Instead, the Alcohol and Gaming Commission of Ontario establishes and enforces the licensing and regulatory regime for the sale, service and delivery of liquor in Ontario, including hours for alcohol service. Noise in the City is regulated by the Noise By-law (Chapter 591 of the City of Toronto Municipal Code).

Outdoor patios in parking lots

A high-level of support was received for permitting "parking lot patios" as a permanent use, with 83 percent of survey respondents in support. Currently, parking lot patios (outdoor patios occupying a required parking space and abutting drive aisle) are permitted on a temporary basis. When asked if it should be a requirement to install a fence surrounding the outdoor patio, there was less support for that requirement, with 68 percent of respondents approving that requirement. Respondents felt that the decision to install a fence or not was best left to the business owner or operator.

Distance from residential areas

Reducing the required distance of an outdoor patio from a residential zone received a mixture of support, concern and opposition. 58 percent of survey respondents supported reducing it, 37 percent did not support reducing it, and 5 percent were unsure. When providing additional details, respondents who supported reducing the required distances did so because it would support businesses and provide more opportunities to socialize in outdoor areas of the City. Respondents who did not support a reduction in the required distance or were unsure were primarily concerned about the potential for noise from the outdoor patio reaching the adjacent residential zones, or less visual privacy.

Potential new commercial uses to which an outdoor patio can be combined with

When asked about potential new outdoor patio use combinations, such as with a personal service shop (hair salon, nail salon) or a massage therapy clinic, respondents had an almost equal ratio of support and opposition for the personal service shop and massage therapy uses. Respondents who supported these use combinations cited improved services and the allowing the business owner or operator to decide what is the best use for their outdoor patio. Respondents who did not support were usually unsure about the practicality or hygienic operations of these types of personal uses outdoors. When asked about permitting outdoor patios with retail stores, respondents were very supportive.

Jurisdictional Review

A review of the zoning or equivalent by-laws for other municipalities in Ontario, Alberta and British Columbia, as well as a few municipalities in the United States were reviewed with respect to outdoor patios.

It is common for other municipalities to:

- restrict the location of outdoor patios based on their distance from a residential zone;
- to have additional requirements for rooftop patios;
- to require an outdoor patio be combined with a restaurant;
- to require a privacy wall when located close to a residential zone;
- to restrict amplified sound; and
- to allow outdoor patios to occupy parking spaces.

It is less common for municipalities to:

- restrict the size of an outdoor patio in relation to the indoor premises it is associated with;
- to restrict an outdoor patio from occupying a required landscaping area;
- to establish a seating capacity;
- to establish a maximum fence or barrier height; and
- to limit the height at which audio/visual equipment can be installed or to regulate the direction of light.

City-wide Recommendations

Based on feedback received through the public consultation, as well as consultation with City staff, the following five changes are recommended:

1. Maximum Area for Outdoor Patios

The intention of establishing a permitted maximum size for outdoor patios in relation to the premises it is combined with is to ensure the outdoor patio remains ancillary to the indoor establishment it is combined with. The permitted maximum size of an outdoor patio is the greater of 30 percent of the premises it is combined with or 30 square metres. In response to the COVID-19 pandemic, and on a temporary basis until December 31, 2023, the permitted maximum size of an outdoor patio has been

increased to the greater of 50 percent of the premises it is combined with or 50 square metres. This increase has not resulted in negative impacts to the community, is clear for business operators to understand, received a high level of support during public consultations, and contributes positively to economic prosperity and an attractive public realm.

Staff recommend the temporary increase from the greater of 30 percent of the premises the indoor premises the outdoor patio it is associated with to 50 percent of the premises (30 square metres of 50 square metres respectively) be made permanent.

2. Outdoor Patios in the Commercial Local (CL) Zone

The purpose of the Commercial Local (CL) Zone is to provide areas for small-scale commercial uses to serve the needs of the local residential area. Outdoor patios are not permitted in the CL Zone. In response to the COVID-19 pandemic and on a temporary basis until December 31, 2023, outdoor patios have been permitted to operate in this zone under the following conditions:

- The outdoor patio cannot be used for entertainment, such as performances, music and dancing;
- The outdoor patio must be set back at least 30.0 metres from a lot in the Residential Zone category or Residential Apartment Zone category;
- The outdoor patio must not be located in a rear yard or side yard which abuts a lot in the Residential Zone category or Residential Apartment Zone category;
- The outdoor patio must not exceed an area equal to the greater of 50 square metres or 50 percent of the interior floor area of the premises it is combined with;
- The outdoor patio must not be located above the first storey of the building;

The above conditions were established in consideration of the smaller-scale commercial uses permitted in this zone associated with the *Neighbourhoods* designation in the Official Plan. The CL Zone currently permits eating establishments and permitting an outdoor patio would be a complementary natural extension to this use. In addition, it supports increased opportunities for business owners and operators and space for communities to gather and it contributes positively to economic prosperity and an attractive public realm. There was a high level of support to continue permitting outdoor patios in this zone during public consultations. Staff are recommending that outdoor patios be permanently introduced as a permitted use in this zone with some modifications to the existing temporary conditions.

It is also proposed that the required distance from Residential and Residential Apartment Zone categories be reduced from 30 metres to 10 metres to remain consistent with the proposed required setbacks in the Commercial Residential (CR) Zone (Development Standard Sets 1 and 2) and due to the typical built-form

configuration in the CL Zone. Most lots in the CL Zone are small corner lots and maintaining a 30 metre separation distance would eliminate most opportunities for an outdoor patio by default. To address potential noise and privacy impacts, it is important to continue to maintain a 10 metre separation distance from the Residential and Residential Apartment Zone categories. When combined with the proposed requirement that outdoor patios are not permitted in the rear or interior side yards of a building in the CL Zone (as buildings in this zone do not typically feature an active commercial presence in these yards), a required 10 metre setback will provide a balance of commercial opportunities while limiting noise exposure to nearby neighbourhoods as well as preserving privacy.

3. Outdoor Patios in Parking Lots

The original intention of maintaining minimum parking spaces and minimum driveway widths in relation to commercial uses was to ensure there is enough vehicular parking based on expected demand. In response to the COVID-19 pandemic and on a temporary basis until December 31, 2023, outdoor patios have been permitted to occupy required parking spaces provided the parking space is not required for a residential use or is not an accessible parking space. Outdoor patios have also been permitted to occupy any drive aisle abutting these parking spaces without resulting in a zoning deficiency as it relates to required drive aisle width.

On December 15, 16 and 17, 2021, City Council enacted By-law 89-2022 which replaced parking minimums with parking maximums for new developments proceeding under an application submitted on or after February 3, 2022, which means that **new developments** will be able to establish outdoor patios where minimum parking rates for non-residential uses would have applied. However, minimum parking rates continue to apply for developments subject to an application submitted before February 3, 2022, which means that the majority of existing buildings in the city still have minimum parking requirements listed in Chapter 970 of City-wide Zoning By-law 569-2013. To address this, a new regulation is proposed in Chapters 200 clarifying that an outdoor patio can occupy a required parking space or the drive aisle leading to that parking space, provided the parking space is not required for a residential occupant or is not an accessible parking space. Also, it is proposed that outdoor patios be permitted to occupy a maximum of 50 percent of required residential visitor parking spaces, to enable outdoor patios in the Residential Apartment Commercial (RAC) Zone.

Outdoor patios will not be able to occupy a drive aisle unless that drive aisle is leading exclusively to a parking space that is occupied by an outdoor patio. This means that drive aisles will continue to be available for circulation throughout the parking lot to other available parking spaces.

If a development has gone through Site Plan Control and has a registered Site Plan Agreement with approved drawings, the property owner of the development may need to amend their site plan drawings to reflect the fact that there are minor changes to the plans, like fewer parking spaces and an occupied drive aisle.

Removing barriers to install outdoor patios in parking lots on a temporary basis for the last three years significantly increased opportunities to install outdoor patios, especially in Etobicoke, North York and Scarborough. The installation of a fence or other barrier was not a requirement for the establishment of these patios in parking lots, but most business operators chose to install a fence without being regulated to do so. Fencing or other delineation requirements continue to apply in accordance with liquor licensing requirements. There was strong support for continuing to permit outdoor patios in parking lots during public consultations, and these outdoor patios help create an attractive public realm and foster social interaction across the city. Staff recommend the temporary permission to occupy parking spaces and connecting driveways become permanent.

4. Industrial Zone Regulations

In 2019, as part of the "Cask Force" review addressing the increased number of breweries in *Employment Areas*, outdoor patios were introduced as a permitted use in association with an eating establishment or take-out eating establishment in the Employment Light Industrial (EL) Zone and Employment Industrial (E) Zones. The same conditions that apply for outdoor patios in the Employment Office Industrial (EO) Zone were applied to the EL and E Zones. The intention of the outdoor patio conditions in the EO Zone were to maintain consistency with the conditions found in the Commercial Residential (CR) Zone and Commercial Residential Employment (CRE) Zones, with some additional requirements such as a required 4.5 metre front yard setback and a 20 percent front yard area limitation to maintain a setback from the street.

In response to the COVID-19 pandemic, on a temporary basis until December 31, 2023, outdoor patios in the EL, E and EO Zones have been permitted to encroach into the required front yard setback and occupy the entire front yard. In support of Official Plan policies to promote a high-quality public realm and avoiding parking between the public sidewalk and retail uses, staff are recommending that the temporary expanded permissions for the EL, E and EO zones be made permanent.

It is important for zoning permissions to maintain certain regulations that protect *Employment Areas* as places where manufacturing uses that may create noise and odour take place alongside permissions for sensitive uses like small to medium scale eating establishments and ancillary outdoor patios. Maintaining a required rear and side yard setback, maximum permitted area, and continuing to prohibit entertainment on lots in the interior of *Employment Areas* address this importance.

Employment Industrial Zones also restrict outdoor patios from being on land required for parking spaces, loading spaces, driveways or landscaping. To remain compatible with the recommendation for outdoor patios to be permitted to occupy parking lots, staff recommend removing the requirement that outdoor patios not be on lands required for parking spaces.

5. Former General Zoning By-laws

To ensure consistency in regulations across the City, the same temporary permissions for outdoor patios that were applied to City-wide Zoning By-law 569-2013 were also applied using a stand-alone by-law that applied to all Former General Zoning By-laws. Staff recommend that any temporary permissions recommended to be made permanent in City-wide Zoning By-law 569-2013 also be made permanent in the Former General Zoning By-laws.

Review of Additional Regulations Unrelated to Temporary COVID-19 By-laws

As part of a comprehensive review of city-wide regulations for outdoor patios, staff recommend six additional changes to the Zoning By-law for new permissions that were not a part of the city-wide temporary use by-laws in response to the COVID-19 pandemic.

1. Permitting Outdoor Patios in the Residential Apartment Commercial (RAC) Zone

The RAC Zone permits uses associated with the *Apartment Neighbourhoods* designation of the Official Plan and provides areas for apartment buildings with local institutions and small-scale retail, such as small bakeries or eating establishments. An outdoor patio is not listed as a permitted use in the RAC zone and was not included as a temporary permission in the temporary city-wide zoning by-laws in response to COVID-19.

During public consultations there was strong support for permitting outdoor patios in the RAC zone, provided other concerns were addressed. The most common concerns raised were the prevention of noise, limiting operating hours, and the preservation of pedestrian walkways around apartment buildings. Staff note that zoning by-laws in Ontario are not able to apply hours of operation as a performance standard for the use of land.

Staff recommend introducing outdoor patios as a permitted use in the RAC zone subject to conditions. Similar to other zones, staff recommend limiting the size of the outdoor patio to 50 percent of the indoor premises it is combined with. An outdoor patio will be permitted to be combined with uses that are permitted in a RAC Zone: a club (like a social club), eating establishment, recreation use, retail store and take-out eating establishment. Entertainment in outdoor patios will not be permitted in the RAC zone; this is consistent with the planning framework for these areas that only permits limited entertainment-related uses.

In response to community concerns regarding the preservation of pedestrian walkways, staff recommend a minimum required pedestrian walkway of 1.5 metres be maintained, consistent with the requirement for an accessible walkway found in the accessible parking requirements in the Zoning by-law. The combination of these conditions reflect that the RAC zone is intended for small-scale commercial uses intended to support

complete communities in the *Apartment Neighbourhoods* designation of the Official Plan.

2. Removing the Prohibition of Entertainment, such as Performances, Music and Dancing

Entertainment such as performances, music and dancing, is not permitted on outdoor patios on private property in the City-wide Zoning By-law. The origins for this regulation are from the former City of North York and City of York Zoning By-laws, with the intention of preventing noise from disrupting residential zoned areas.

City of Toronto Municipal Code Chapter 591 (sometimes referred to as "The Noise By-law") regulates noise in Toronto. This by-law balances the city's vibrancy with the needs of residents and visitors and provides time restrictions and sound level limits for various types of noise.

As part of CaféTO (which are patios on the public right-of-way), a pilot project was held in 2021 and 2022 to allow amplified music on CaféTO patios. Those pilots were successful and provided substantial positive benefits for businesses and musicians, and without excessive music-related complaints. On February 7, 2023, City Council made the pilot program permanent and expanded it city-wide, subject to conditions.

During public consultations, there was a balance of support and concern for permitting entertainment on outdoor patios on private property. Participants that supported enabling entertainment anticipated that removing the restriction would contribute to a more active public realm, would support local musicians, and provide incentive for people in the neighbourhood to come together to enjoy a performance. Meanwhile, participants that expressed concern were primarily concerned about noise disturbances to nearby residentially zoned areas.

Staff recommend only permitting entertainment on outdoor patios in the Commercial Residential Zone category, the Commercial Residential Employment Zone category, the Industrial Zone category and the Open Space Zone category, subject to conditions. Because entertainment is intended to be limited to an ancillary use of an outdoor patio, it is proposed to permit a maximum entertainment area (i.e., the area set aside for performance) of 10 percent of the total area of the outdoor patio. A maximum area of 10 percent provides small-scale entertainment opportunities on an outdoor patio.

To minimize potential outcomes of increased vehicle traffic and pedestrian presence in the interior of *Employment Areas* (typically *Core Employment Areas*), staff recommend permissions with the general intent of only permitting entertainment on an outdoor patio on the periphery of *Employment Areas*, by restricting it to lots abutting a major street (typically in *General Employment Areas*).

To address concerns regarding noise, staff recommend that entertainment on outdoor patios continue to be prohibited on lands that are designated *Neighbourhoods* and *Apartment Neighbourhoods* and located in the Residential Zone category, which

corresponds to the Residential Apartment Commercial Zone category, and the Commercial Local (CL) Zone. To reduce potential noise disturbance to residents on upper storeys of nearby buildings, staff recommend that entertainment not be permitted on rooftop patios.

3. Distance from Residential Zones

In most cases, outdoor patios are required to be a minimum of 30 metres from a lot in the Residential Zone or Residential Apartment Zone categories. The intention of this regulation is to limit exposure to noise and preserve privacy.

Staff reviewed minor variances applications from 2018-2021, and most applications (approximately 40 percent) for outdoor patios required relief from the minimum 30 metre distance zoning by-law requirement, and mostly in the Toronto and East York District. To balance both reducing noise and privacy impacts on adjacent residential zones, while also supporting a vibrant economy, staff recommend reducing the existing 30 metre minimum distance requirement to 10 metres in the Commercial Residential Employment (CRE) Zone and Development Standard Sets 1 and 2 of the Commercial Residential (CR) Zone. These areas generally align with the *Downtown, Centres and Avenues*, where in the context of commercial main streets it is difficult to install a patio that is located 30 metres from a Residential or Residential Apartment Zone category, based on the existing lot fabric in these urban areas. Requiring a minimum 10 metre distance from these zone categories acknowledges that as an outdoor use, even noise that may be in compliance with the 'Noise By-law', such as loud conversations, can be disruptive if placed directly beside a lot in the Residential Zone category. Also, permitting an outdoor patio to be less than 10 metres from a lot in the Residential or Residential Apartment Zone category may have negative impacts on privacy. Combined with the existing requirement to install a fence, the minimum 10 metre distance requirement is intended to continue to preserve privacy and minimize noise nuisances.

4. Additional Use Combinations

The Commercial Residential (CR) Zone permits a wide range of uses is permitted in combination with outdoor patios in, except the following:

- **Massage Therapy**, which means a premises providing massage therapy by persons who are medical or health professionals licensed or registered under Province of Ontario legislation.
- **Personal Service Shop**, which means a premises used to provide personal grooming services or for the cleaning or care of apparel.
- **Retail Store**, which means a premises in which goods or commodities are sold, rented or leased.

One of the objectives of this review was to be prepared for the emergence of respiratory viruses in the future in such a way that the enactment of temporary use by-laws by City

Council would not be required as a response. Therefore, the non-permitted uses of massage therapy and personal service shop were reviewed for consideration as permitted uses in combination with an outdoor patio.

Staff in Toronto Public Health described personal service shop in particular as a use that presents public health concerns when operated outside. Concerns expressed included hair from outdoor barber or hairdressing salons potentially being in close proximity to outdoor patios combined with eating establishments or the use of manicure related chemicals in an outdoor environment.

In response to public health concerns, staff do not recommend permitting personal service shops to have an associated outdoor patio. Despite this need which emerged during the pandemic, further study is required with staff in Toronto Public Health to determine healthy and effective ways to permit outdoor personal services uses.

Staff also do not recommend permitting massage therapy to have an associated outdoor patio. It is practically difficult to implement the facilities required for outdoor massage therapy, such as changing and washing rooms.

Retail stores provide a wide range of goods, an example of which is a book store. There was a strong positive response to permitting retail stores to have an associated outdoor patio during the public consultation. In comparison to other permitted use combinations, staff found there are minimal negative impacts to the surrounding community in adding this permission. Therefore, staff recommend that retail store be permitted to have an associated outdoor patio.

5. Permitting Outdoor Patios on Abutting Lots

Staff propose adding language to the Zoning By-law that clarifies an outdoor patio is permitted on an abutting lot that permits outdoor patios. Some business operators have expressed a need for their outdoor patios to occupy an abutting lot (subject to an agreement established with the owner of that property). The requirement that an outdoor patio must be "combined" with certain uses can be interpreted as requiring the outdoor patio to be on the same lot as that use. Allowing an outdoor patio to expand to an abutting lot provides flexibility for business operators while maintaining the intention that the outdoor patio is combined with a permitted non-residential use.

6. Change in Language to "Combined with"

There are instances in the by-law where both "combined with" and "associated with" are used. For example, in the Commercial Residential (CR) Zone, the regulations state that an outdoor patio must be "combined with" a permitted use, but the regulation goes on to state that the permitted maximum area of an outdoor patio is based on the premises "it is associated with." The meaning of these terms is similar, with the intention of forming a connection between the outdoor patio and the non-residential use it is associated with. Staff propose changing the term to "combined with" in all instances to apply a consistent interpretation that the outdoor patio standards are always in association with the non-residential use it is "combined with".

7. Amending Open Space Zones

The form and structure of zoning regulations for outdoor patios in the open space zones is inconsistent with other zones. The Open Space Recreation (OR) Zone, the Open Space Marina (OM) Zone, and the Open Space Golf (OG) Zone regulate patios with inconsistent wording that leaves it unclear as to which conditions apply to an outdoor patio combined with a different use, or if an outdoor patio is permitted with a different use. It is proposed that each zone condition be amended to include that an outdoor patio must be combined with a permitted use to provide clarity among all the zones.

The prohibition of entertainment, such as music, performances and dancing is also inconsistently applied in the Open Space Zone category. With some zones proposed to permit entertainment, and others that will not, it is proposed that each zone state that entertainment be permitted provided the entertainment area does not exceed 10 percent, consistent with the recommendations of this report to permit entertainment on outdoor patios in other zones. Combined with the existing distance requirement from the Residential and Residential Apartment Zone categories, and to support opportunity for entertainment in City Parks and other recreation facilities, entertainment is proposed to be permitted in all open spaces zones where an outdoor patio is permitted.

Winterization of Outdoor Patios

Amendments to the Zoning By-law are not proposed to accommodate winterized outdoor patios, by means of the installation of awnings, tents, or tent-like structures. The Zoning By-law already permits for a range of winterization structures, including a canopy or awing over an outdoor patio, subject to conditions related to required building setbacks.

Staff reviewed minor variance applications from 2018-2021 and found that there have been minimal applications to pursue winterization of an outdoor patio. Therefore, staff are not recommending changes to the Zoning By-law to further accommodate winterization of outdoor patios at this time.

Site-specific Recommendations

In addition to the temporary city-wide regulations for outdoor patios, several site-specific temporary use by-laws for outdoor patios were enacted. These by-laws were enacted where the City-wide by-laws did not provide the zoning relief required for an outdoor patio installation, typically because the required 30-metre distance from a Residential Zone category could not be met or because the outdoor patio was located on an abutting or nearby lot.

Some of the expanded permissions for these site-specific outdoor patios would no longer required as a result of the proposed City-wide Zoning By-law amendments to decrease the minimum required distance from a lot in the Residential and Residential

Apartment Zone category, or the clarification that an outdoor patio can be located on an abutting lot.

Some of the expanded permissions for the site-specific outdoor patios are still required, and in these cases staff are recommending that they continue on a temporary or permanent basis. For the continuation of site-specific permissions that were granted on a temporary basis, staff in the Zoning Section consulted with business owners and operators, staff in Community Planning, and the local Ward Councillors to determine the appropriateness of the temporary permission becoming permanent.

Outdoor Patios that Continue to Require Zoning Relief

Staff recommend approval of proposed Zoning By-law amendments to permit the following outdoor patios on a permanent basis, with the exception of 229 Richmond Street West which is proposed on a temporary basis only, as a park is planned for the site.

These outdoor patios have performed well over the past few years, have received minimal noise complaints and have been actively used and have provided increased opportunities for social interaction. Details of each outdoor patio are provided in the following sections.

100 Indian Road

The High Park Club, which provides facilities for curling, lawn tennis and other social events like weddings is located in the R-Residential Zone which does not permit an outdoor patio. The Club includes two rear-yard outdoor patios which have operated well for the past few years and have not generated significant community complaints. Site-specific relief from the Zoning By-law is required for these outdoor patios, as the proposed amendments to the city-wide zoning by-law will not permit outdoor patios in the R Zone.

67 Front Street East and 94 The Esplanade

The temporary use by-law for this outdoor patio was enacted to permit an off-site outdoor patio at 94 The Esplanade to be used in combination with the eating establishment located at 67 Front Street East. Site-specific relief is still required for this outdoor patio because this outdoor patio is not on the same lot, or abutting lot, as the eating establishment that it is combined with at 94 The Esplanade.

95-107 Danforth Avenue & 749 Broadview Avenue

The temporary use by-law for this outdoor patio was enacted to permit an outdoor patio that did not comply with the 30-metre distance requirement from a lot in the Residential Zone category. As this outdoor patio is located approximately five metres from a lot in the Residential Zone category, relief from the Zoning By-law is required, even after the proposed City-wide reduction in the required distance from 30 metres to 10 metres.

1118 Queen Street East

The temporary use by-law for this outdoor patio was enacted to permit an outdoor patio that did not comply with the 30-metre distance requirement from a lot in the Residential Zone category. As this outdoor patio is located approximately five metres from a lot in the Residential Zone category, relief from the Zoning By-law will still be required, even after a reduction in the required distance from 30 metres to 10 metres.

229 Richmond Street West

This outdoor patio operates for establishments that are not located on the same property, and more recently, recreation uses (skating rink, volleyball court and pickleball court) have been introduced. A new 2,600 square metre public park is planned for this site. In consultation with the Ward Councillor and City staff, City Planning staff recommend an extension of the temporary use by-law for the lands to December 31, 2025, to provide permission for the outdoor patio to continue as an interim until the construction of the new park. Staff recommend additional modifications to the existing temporary use by-law, including expanded permissions for recreation uses to facilitate the installation of a temporary skating rink, volleyball court, and pickleball court.

Outdoor Patios that No Longer Require Zoning Relief or Have Not Been Used

Various site-specific temporary outdoor patio permissions are no longer required because proposed city-wide amendments will permit the outdoor patios on a permanent basis, or because the outdoor patios have not been actively used over the past few years.

Outdoor patios that comply based on the proposed city-wide amendments to the Zoning By-law include:

- 516 Eglinton Avenue West (this outdoor patio will comply with the proposed city-wide distance requirements from lots in the Residential Zone category)
- 139-141 Danforth Avenue (this outdoor patio will comply with the proposed city-wide distance from requirement from lots in the Residential Zone category)
- 345 Carlaw Avenue and 1180 Dundas Street East (this outdoor patio will comply with the proposed city-wide permitted use combinations)
- 1008-1010 Queen Street East (this outdoor patio will comply with the proposed city-wide requirements to be on the same lot or abutting lot as the use it is combined with)
- 1298 Queen Street East (this outdoor patio will comply with the proposed city-wide distance requirements from lots in the Residential Zone category)

Outdoor patios that have not been actively used or have been confirmed as no longer being required by the property owner or property management company include:

- 25 The West Mall
- 1012-1018 Gerrard Street East
- 106 Broadview Avenue, 704 Queen Street East, 3 Hamilton Street
- 401 Logan Avenue
- 592 Gerrard Street East

Conclusion of City-initiated Temporary Site-Specific By-laws for Outdoor Patios Program

The program to establish city-initiated site-specific temporary use by-laws to provide relief from zoning by-law requirements has concluded. Going forward, outdoor patios that require relief from any provision of a zoning by-law must be authorized by a Minor Variance Application or a Zoning By-law Amendment Application, as appropriate, following the respective processes as regulated by the *Planning Act*.

CONCLUSION

Outdoor patios on private property are one of three options the City permits for outdoor dining, alongside sidewalk cafés and on-street dining. Since the onset of the COVID-19 pandemic in March 2020, City Council has supported outdoor patios on private property through the enactment of several temporary city-wide and site-specific by-laws, and the creation of the complementary CaféTO program for outdoor patios located on the public rights-of-way. In 2022, City Council directed staff to report back with potential permanent modifications to zoning regulations for outdoor patios on private property.

The recommended proposals for outdoor patios increase economic opportunities for business owners and operators and provide work opportunities for nearby residents. The proposals also increase the quality of the public realm, especially in industrial areas and surface parking lots across the city. Introducing outdoor patios in the Residential Apartment Commercial (RAC) Zone provides opportunities to enhance the ground floor animation of apartment buildings. Appropriate distances from Residential or Residential Apartment Zone categories are maintained. Limited entertainment is proposed in appropriate land use designations and zones, while maintaining the entertainment prohibition in predominantly residential land use designations and zones.

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ATTACHMENTS

Attachment 1- Proposed Amendment to City-wide Zoning By-law 569-2013 for Outdoor Patios

Attachment 2 - Proposed Stand-alone Amendment to the Former General Zoning By-laws for Outdoor Patios

Attachment 3 - Site-specific By-law for 94 The Esplanade

Attachment 4 - Site-specific By-law for 100 Indian Road

Attachment 5 - Site-specific By-law for 749 Broadview Avenue and 95-107 Danforth Avenue

Attachment 6 - Site-specific By-law for 1118 Queen Street East

Attachment 7 - Temporary Site-specific By-law for 229 Richmond Street West

Attachment 8 - Decision History