



REFERRAL REPORT

Report Date: June 9, 2020
Contact: Chris Robertson
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RTS No.: 13915
VanRIMS No.: 08-2000-20
Meeting Date: June 11, 2020

TO: Vancouver City Council
FROM: General Manager of Planning, Urban Design & Sustainability
SUBJECT: Zoning and Development By-law Amendments to Temporarily Allow Patios for Businesses on Private Property

RECOMMENDATION

- A. THAT the General Manager of Planning, Urban Design & Sustainability be instructed to make application to amend the Zoning and Development By-Law to temporarily allow for uses to be carried on outside of a completely enclosed building until October 31, 2020, generally in accordance with Appendix A.
- B. THAT the application be referred to a Public Hearing.
- C. THAT the Director of Legal Services be instructed to prepare the necessary amending By-law, generally in accordance with Appendix A, for consideration at Public Hearing.

REPORT SUMMARY

This report proposes amendments to the Zoning and Development By-law to temporarily allow outdoor patios for businesses on private property until October 31, 2020 on sites where patios are currently not permitted and are deemed suitable by the Director of Planning. At present, there are restrictions within the Zoning and Development By-law that require some uses such as a lounge accessory to a brewery or distillery to be carried on completely within an enclosed building. If approved, the proposed amendments would allow the Director or Planning to vary these requirements for all applicable uses on a time-limited and temporary basis for individual sites.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

On July 9, 2013, Council enacted amendments to the M-1, M-2, I-1, I-2, I-3, IC-1, IC-2 and IC-3 industrial districts of the Zoning and Development By-law to allow lounge use accessory to a brewing or distilling use, to a maximum size of 80 sq. m, and wholly contained within the principal building.

On May 13, 2020, Council passed a Motion on Flexible, Innovative and Expedited Patio Permitting which emphasized Council's commitment to supporting the business community, and specifically hard hit restaurants. The Motion focused on developing new and nimble approaches to support restaurant businesses in meeting Public Health physical distancing requirements while continuing to sustain themselves during the pandemic. Emphasis was placed on providing pre-prepared templates/types of patios to improve speed and support staff in prioritizing this work.

On May 27, 2020, Council considered a staff report on Enabling Temporary Expansion of Liquor Primary and Manufacturer Liquor Service Areas and approved the option of informing the General Manager of the Liquor and Cannabis Regulation Branch in writing that Council pre-approves all liquor primary and manufacturer establishments in the City of Vancouver who may apply for expanded liquor service area before October 31, 2020. Council also temporarily waived the fee for assessing and providing comments to the Province on an application for a temporary amendment to a liquor licence for the same time period.

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The City Manager recommends approval of the foregoing.

REPORT

Background/Context

Since the onset of the COVID-19 pandemic, many businesses in the City have been responding to the physical distancing measures set by the Office of the Public Health Officer (PHO). On May 22, 2020, the Provincial Liquor and Cannabis Regulation Branch approved policy that permits a Temporary Expanded Service Area Authorization to be issued to food primary, liquor primary, and manufacturer licenses to support liquor licensed establishments in accommodating the same number of patrons while complying with PHO distancing and public gathering requirements. The temporary extension of service areas expires on October 31, 2020.

To enable businesses to take advantage of the Province's authorization for a temporary expanded service area, on May 27, 2020 Council pre-approved all liquor primary and manufacturer establishments in the City who apply to the Province for an expanded liquor service area (ie. patio) before October 31, 2020. Council also temporarily waived the associated fee for providing comments to the Province on an application for a temporary amendment to a liquor licence for the same time period.

At present, there are restrictions within the Zoning and Development By-law that require certain uses to be carried on wholly within a completely enclosed building and as a result, a patio on

private property cannot be approved. These restrictions apply to lounges accessory to a brewery or distillery, as well as to restaurants, retail stores, neighbourhood grocery stores and cabarets in some District Schedules.

The City's Temporary Expedited Patio Program allows businesses to apply for a free temporary patio permit until October 31, 2020, on public property in-front of or beside the building (ie. on-street parking or sidewalk space). Uses where patios are currently not permitted on private property are also eligible to apply under this program. Applicants that meet the requirements may be issued a permit within two business days of submitting their application.

Strategic Analysis

Proposed Zoning and Development By-law Amendment

Current regulations in some District Schedules prohibit certain uses, such as accessory lounges for liquor manufactures, restaurants, retail stores, neighbourhood grocery stores and cabarets, from having a patio on private property as the use must be carried out entirely within an enclosed building. For brewery and distillery uses, this regulation was included when a lounge accessory to the principal manufacturing use was introduced in the Zoning & Development By-law in 2013. At that time, the lounge was restricted in size and contained wholly within the building in an effort to minimize any potential negative impacts on other industrial uses and neighbouring commercial and residential uses. Liquor manufacturers with a restaurant business license are currently eligible to apply for a patio under existing regulations.

An amendment to the Zoning and Development By-law is required to allow flexibility to approve patios until October 31, 2020 on private property for these uses. The proposed amendment would allow the Director of Planning to vary regulations that a use must be carried out wholly within a completely enclosed building to allow service areas to expand outside:

“10.29A Temporary permission to carry on a use outside of a completely enclosed building

- 10.29A.1 Notwithstanding a condition of use in a district schedule requiring that a use be carried on wholly within a completely enclosed building, the Director of Planning may permit a use to be carried on outside of a completely enclosed building for a period up to and including October 31, 2020, and may vary any other regulation in a district schedule required to enable that use for that period.”

A development permit would be required for approval of a patio on private property. As the proposed amendments must be referred to a Public Hearing, it is anticipated that the earliest timeframe to apply for a patio on private property would be in early July 2020, pending Council approval. Owners and operators of service uses, including breweries and distilleries with an accessory lounge, who wish to proceed with a patio on public property, can currently do so through the City's Temporary Expedited Patio Program. If Council refers the draft by-law to a Public Hearing, staff will work with businesses with enquiries for temporary patios on private property to allow for expedient processing should Council approve the amendments.

Approval for all temporary permission to carry on a use outside of a completely enclosed building would be until October 31, 2020. After this time, applications for patios on private property would be subject to existing regulations.

Implications/Related Issues/Risk

Financial

It is proposed that fees for a development permit to allow a patio on private property be waived. Currently, the fee for a development permit for a temporary patio is \$385 as per Section 4(c) of the Zoning and Development Fee By-law No. 5585. While it's uncertain how many development permit applications for patios on private property will be received, the low value of the fee is expected to cause limited impact and will assist support for business and economic recovery.

CONCLUSION

This report recommends amendments to the Zoning and Development By-law to allow the Director of Planning to vary requirements for certain service uses to be carried on wholly within a completely enclosed within a building until October 31, 2020. This would enable applications for patios on private property for uses such as brewery and distillery lounges, retail stores, cabarets, and in some cases, neighbourhood grocery stores and restaurants, which currently are not permitted.

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**Draft Bylaw to amend Zoning and Development By-law No. 3575
regarding amendments to allow temporary permission
to carry on a use outside of a completely enclosed building**

Note: A By-law will be prepared generally in accordance with the provisions listed below, subject to change and refinement prior to posting

1. This By-law amends the indicated provisions of By-law No. 3575.
2. In section 10, Council adds the following new section 10.29A in the correct numerical order:

“10.29A Temporary permission to carry on a use outside of a completely enclosed building

- 10.29A.1 Notwithstanding a condition of use in a district schedule requiring that a use be carried on wholly within a completely enclosed building, the Director of Planning may permit a use to be carried on outside of a completely enclosed building for a period up to and including October 31, 2020, and may vary any other regulation in a district schedule required to enable that use for that period.”