



REPORT

Report Date: May 3, 2021
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Meeting Date: May 18, 2021
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TO: Vancouver City Council
FROM: General Manager of Engineering Services
SUBJECT: Waiving Patio Fees for 2021

RECOMMENDATION

THAT Council approve, in principle, "A By-law to amend the Temporary Patio and Street Vending Fees By-law Regarding Patio Fees," consistent with Council direction on March 30, 2021, and generally in accordance with Appendix A;

FURTHER THAT the Director of Legal Services bring forward for enactment such by-law amendments as are necessary to implement the above;

AND FURTHER THAT Council approve up to \$75,000 from the 2021 Council contingency budget to fund the administrative cost to refund patio permit fees to businesses.

REPORT SUMMARY

This report responds to Section 8 of the March 30, 2021 Motion of Council regarding Additional Emergency COVID-19 Measures, which directed staff to:

"report back with bylaw amendments to waive the annual fees for regular patio/large patio permits for 2021, recognizing that due to COVID restrictions closures and limited capacities were experienced by operators last year, and will be again in 2021, with continued uncertainty due to the pandemic and options to cover the associated revenue reduction;"

A temporary by-law is being proposed to waive the 2021 annual fees for patios on both public and private land. With Council approval, staff will be able to waive fees for the remainder of 2021 and issue refunds, or a credit within their account for their 2022 fees, for those patio operators who have already paid.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

Council has the authority to allow the private use of street space pursuant to Section 289A of the *Vancouver Charter*. Council has exercised that authority through the *Street Vending By-law* and in particular Section 5 and Schedule A: Fees to allow for patios on public spaces.

On May 27, 2020, Council approved by-law amendments to temporarily waive all permit and application fees associated with temporary expansion and creation of patio spaces until October 31, 2020 and directed staff to bring forward for enactment such by-law amendments as are necessary to implement this approval.

On June 11, 2020, Council enacted the *Temporary Patio and Street Vending Fees By-law* to implement Council's resolution of May 27, 2020, to temporarily waive all permit and application fees associated with temporary expansion of patio spaces until October 31, 2020.

On October 20, 2020, Council enacted an extension of the *Temporary Patio and Street Vending Fees By-law* according to Option 2 as outlined in the Report dated September 28, 2020, entitled "Extension to the Temporary Patio Program Through COVID-19 Recovery," to temporarily waive all permit and application fees associated with temporary expansion of patio spaces until October 31, 2021.

On March 30, 2021, Council passed a Motion titled *Additional Emergency COVID-19 Measures* that responded to provincial health orders announced March 29, 2021, to support the business community through a number of actions including waiving annual fees for regular patios and large patios in 2021.

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The City Manager recommends approval of the foregoing.

REPORT

Background/Context

Prior to the introduction of the Temporary Expedited Patio Program (TEPP), patios were enabled through programs that administered patios on both private and public property.

The Street Vending By-law enabled patios on public property, through permits that can be renewed annually or seasonally.

- Large patios permitted annually are those that historically are used through all seasons and may have more significant structural elements occupying public space. For large licenced patios the annual permits are renewed from April 1 through a March 31 term, and the seasonal permits are for summer (April 1 to October 31), and winter (October 31 to March 31).
- Small patios, tables and chairs installed and removed on a daily basis, are approved through annual permits renewed each May 1.

To manage the City's risk and liability, staff review new regular and TEPP patio space applications to ensure program compliance and safe use of the public realm. Further, staff ask

businesses to provide proof of insurance for any patios on public property. A typical permit fee for a patio in public street right of way would range from about \$450 for a small patio to an average of \$2800 for a large patio varying according to size and duration.

The Zoning and Development By-Law and the Vancouver Building By-law enable patios on private property. A development permit is required for the change of use of the private property, and a building permit is required for both any physical construction that may be proposed as well as the alteration to the building or suite created by the additional occupant load associated with it (washroom demand, impact on building exits, etc.). Building permits are generally not time-limited, and therefore the fees paid are one-time only and not renewed annually. However, development permits for exterior uses are typically issued on a time-limited basis in order to allow the City to review the impact of the patio on the surrounding neighbourhood. Such development permits are typically extended annually with an associated fee charged to the business, provided the establishment has operated the patio within the parameters of the development permit conditions and there are no irresolvable complaints from neighbours.

Strategic Analysis

To address section 8 of the March 30, 2021 Council motion, staff drafted a by-law to temporarily waive the fees described in the table that would otherwise be charged in 2021. These fees are charged for patios that were permitted by the City as part of the established patio programs before the pandemic, and which continue to be permitted through 2021 in parallel with the TEPP.

TEPP patios, which were created according to only three specific patio typologies, are not charged any applicant or permit fees in 2021.

Fee Type	Why	Patio types it applies to	Revenue *	Bylaw with this fee
Public property				
Annual patio fee for regular patios, not enabled through TEPP	Charge for use of public space	~300 large patios Including 8 curbside pilot ~170 small patios	\$1.0 million	Street Vending By-Law
Private property				
Development permit extensions in 2021 for regular patios, not enabled through TEPP	A change in use for the private property	145 Private Patios	\$164,000	Zoning and Development By-Law

* Note: revenue comparators are based on 2019 revenues.

The motion directs that staff bring back a by-law to waive fees for 2021. It should be noted that the waiving of fees extends beyond the current Council supported TEPP timelines, which end October 31, 2021. While development permits for patios on private property are renewed for a term that aligns with the calendar year, for patios on public property, annual patio fees extend to spring 2022 and winter large patio permits would typically be initiated for the term from November 1 to March 31. For equity between patio permit types, staff have outlined the waiving

of all 2021 annual Permit Fees as per schedule A of the Street Vending By-law, for any renewals or the issuance of any new annual permits within the current permit terms, which includes permits typically renewed in fall for a permit that lasts to March 2022.

As with TEPP, fees associated with permits for semi-permanent items such as large tents, awnings and trades work will continue to be charged through our regular programs. One-time fees will also continue for initial application or building permits for construction or building alteration.

Financial

The waiving of fees for 2021 as proposed in the bylaw amendment will result in approximately \$1.2 million in reduced revenue for the City. The 2021 budget anticipated there may be a budget risk to the revenue associated with the annual patio fees, and an accommodation has been made within the existing 2021 operating budget to provide for such a revenue impact. Further, an amount of \$580,000 was incorporated in the 2021 budget, for the additional cost of the TEPP program. These foregone patio fee revenues and unrecovered costs associated with the TEPP program are contributing to the projected draw on funds from the Revenue Stabilization Reserve to balance the City's operating budget for 2021.

Operationally, at this point in the year the majority of businesses in the regular program have already made payment for their 2021 permits. Additional work will need to be undertaken to refund all payments already processed, a function not normally part of the program. Given the volume of refunds, funding of approximately \$75,000 from the council contingency budget is requested for temporary staffing costs to support the processing of refunds. The council contingency budget is \$2 million in 2021, and this is normally set aside for unexpected expenses that arise subsequent to the approval of the budget. Upon approval of the recommendations in this report, \$1.9 million would remain available in the council contingency budget.

Staff will continue to monitor the program and respond to changes in health orders, as well as gauge the need for support for increased application volumes or the need for on-street temporary traffic safety controls. It is anticipated that the incremental costs related to additional application volumes will be managed within existing resources approved in the 2021 budget. Staff will be providing Council with an update on TEPP and the regular patio programs in the fall of 2021.

CONCLUSION

Staff recommends adoption of the by-law presented to waive annual permit and application fees for regular patios that exist outside the TEPP as directed by Council on March 31, 2020. With Council approval, staff will be able to waive annual fees for the remainder of 2021 and issue refunds or credits to those businesses holding a renewable patio permit who have already paid. In the coming months, staff will report back to Council on continuing a Summer Seasonal Patio Program annually, as directed by Council in Section E of the September 16, 2020 motion.

* * * * *

**Draft By-law to amend the Temporary Patio and Street Vending Fees By-law
Regarding Patio Fees**

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

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

1. This By-law amends the indicated provisions of Temporary Patio and Street Vending Fees By-law No. 12714.
2. In section 1.2, Council adds a new definition after “temporary private patio permit” of “other patio permit” as follows:

““other patio permit” means any permit required by the City for the construction, installation or operation of a patio, other than a temporary street vending permit, temporary private patio permit or business license;”

3. Council strikes sections 2 and 3, and replaces them with sections 2 and 3 as follows:

**“SECTION 2
STREET VENDING BY-LAW NO. 10868**

2.1 Despite anything to the contrary in the Street Vending By-law, no fees shall be payable for temporary street vending permits or other patio permits.

**SECTION 3
ZONING AND DEVELOPMENT FEE BY-LAW NO. 5585**

3.1 Despite anything to the contrary in the Zoning and Development Fee By-law, no fees shall be payable for a Development Permit with respect to a temporary private patio permit or other patio permit.”

4. Council adds a new section 5 as follows:

“5.1 For clarity, any fees already paid in 2021 for any permits governed by sections 2, 3 and 4 are to be refunded.”
5. A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.
6. This By-law is to come into force and take effect on the date of its enactment.

City Clerk