



REFERRAL REPORT

Report Date: January 24, 2022
Contact: Chris Robertson
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RTS No.: 15004
VanRIMS No.: 08-2000-20
Meeting Date: March 1, 2022

TO: Vancouver City Council

FROM: General Manager of Planning, Urban Design and Sustainability

SUBJECT: Zoning and Development By-law Amendments to support the Patio Program for Businesses on Private Property

RECOMMENDATION TO REFER

THAT the General Manager of Planning, Urban Design and Sustainability be instructed to bring forward the application as described below and that the application be referred to Public Hearing together with the recommendations set out below;

FURTHER THAT the Director of Legal Services be instructed to prepare the necessary Zoning and Development By-law amendments, in accordance with the recommendations set out below, for consideration at the Public Hearing.

RECOMMENDATION FOR PUBLIC HEARING

A. THAT Council approves, in principle, the application to extend regulations to allow patios for businesses on private property with patio restrictions until October 31, 2022;

FURTHER THAT the Director of Legal Services be instructed to bring forward for enactment an amendment to the Zoning and Development By-law generally in accordance with Appendix A.

B. THAT Recommendation A be adopted on the following conditions:

(i) THAT passage of the above resolutions creates no legal rights for any person, or obligation on the part of the City and any expenditure of funds or incurring of costs is at the risk of the person making the expenditure or incurring the cost;

- (ii) THAT any approval that may be granted following the public hearing shall not obligate the City to enact any rezoning by-laws; and
- (iii) THAT the City and all its officials, including the Approving Officer, shall not in any way be limited or directed in the exercise of their authority or discretion, regardless of when they are called upon to exercise such authority or discretion.

REPORT SUMMARY

This report proposes amendments to the Zoning and Development By-law to extend allowance of outdoor patios for businesses with patio restrictions on private property from March 31, 2022 to October 31, 2022. This extension would enable a continued temporary pathway for businesses subject to regulations within the Zoning and Development By-law that require a use to be contained within a building. During the 2021 Temporary Expedited Patio Program (TEPP), approximately three businesses took advantage of this relaxed provision. Staff are working on zoning changes to address this regulation and will be reporting out to Council this fall.

Staff recommend that the proposal be referred to a Public Hearing, with the recommendation of the General Manager of Planning, Urban Design and Sustainability to approve it in principle, subject to the Public Hearing, and conditions contained in Appendix A.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

- May 2020 - Council Motion to support small businesses such as restaurants in meeting Public Health physical distancing requirements while continuing to sustain themselves during the pandemic.
- June 2020 – Council approved the Temporary Expedited Patio Program (TEPP), which expedited permit processes and waived permit costs for temporary patios until October 31, 2020.
- June 2020 - Council enacted Zoning and Development By-law amendments to temporarily allow outdoor patios on private property until October 31, 2020 for uses that must be contained within a building in some District Schedules.
- October 2020 - Council approved Zoning and Development By-law amendments extending temporary patios for businesses on private property until October 31, 2021.
- September 2021 – Council approved the proposal for a permanent summer patio program.
- October 2021 - Council approved liquor manufacturer patios on an ongoing basis. Council also approved Zoning and Development By-law amendments which extended the temporary allowance of outdoor patios on private property to March 31, 2022 for uses that must be contained within a building in some District Schedules.

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The City Manager recommends approval of the foregoing.

REPORT

Background/Context

In response to COVID-19 and Public Health Office (PHO) orders requiring physical distancing, the City launched the Temporary Expedited Patio Program (TEPP) in June 2020. The TEPP expedited permit processes, waived permit costs for temporary patios, and included subsequent by-law amendments to allow temporary patios. Specifically, Council approved Zoning and Development By-law amendments that temporarily allowed patios on private property until October 31, 2021 for uses that must be contained within a building in some District Schedules. The City approved a total of 692 TEPP permits during the 2021 summer season (April 1 to October 31), 516 which were on public property and 176 (72 new) on private property.

In September 2021, Council approved the proposal to transition from TEPP to an updated permanent summer patio program which allows summer patios on private and public property from April 1 to October 31. As directed by Council, staff will be undertaking a review of the patio program (annual and summer) and reporting out to Council following a review of the summer patio season.

In October 2021, Council also approved Zoning and Development By-law regulations to allow patios for liquor manufacturers on private property on an on-going basis. The amendments also further extended temporary allowance of outdoor patios on private property to March 31, 2022 for uses that must be contained within a building in some District Schedules.

Strategic Analysis

Proposed Zoning and Development By-law Amendment

As the COVID-19 pandemic continues, staff are recommending an amendment to the Zoning and Development By-law to allow continued flexibility for the approval of patios on private property. In some District Schedules in the Zoning and Development By-law, uses such as retail stores, grocery or drug stores, clubs and cabarets, and in some cases restaurants and neighbourhood grocery stores are subject to regulations that require the use to be contained within a building. These restrictions impacted approximately three businesses that received a Temporary Expedited Patio Program (TEPP) permit in 2021. Section 10.29A currently allows the Director of Planning to permit a patio to be carried on outside of a completely enclosed building until March 31, 2022. The proposed amendment would extend this date until October 31, 2022 to allow the specific uses listed above to apply for a patio permit this year.

Staff recommend extending this date through the proposed Zoning and Development By-law amendment below (see also Appendix A).

The recommendation is to strike out the date in section 10.29A.1:

“10.29A Temporary patios

- 10.29A.1 For the purposes of this section 10.29A, “temporary patio” means a patio permitted on a temporary basis only, for a period up to and including **March 31, 2022**.
- 10.29A.2 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 temporary patio to be carried on outside of a completely enclosed building.

- 10.29A.3 The Director of Planning may vary any regulation in a district schedule in order to enable the enclosure of a temporary patio.”

And substitute that date with the following:

“10.29A Temporary patios

- 10.29A.1 For the purposes of this section 10.29A, “temporary patio” means a patio permitted on a temporary basis only, for a period up to and including **October 31, 2022.**
- 10.29A.2 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 temporary patio to be carried on outside of a completely enclosed building.
- 10.29A.3 The Director of Planning may vary any regulation in a district schedule in order to enable the enclosure of a temporary patio.”

If approved, the proposed changes will extend the Director of Planning’s ability to permit a patio to be outside of a building for restricted uses until October 31, 2022. Staff will report out to Council later in the year following further analysis on Zoning and Development By-law regulation changes to allow patios for these uses.

CONCLUSION

This report recommends a Zoning and Development By-law amendment to continue the current pathway that allows for patios on private property for uses, such as retail stores, grocery or drug stores, clubs, cabarets, and in some district schedules, neighbourhood grocery stores and restaurants, to October 31, 2022. This amendment would provide a pathway for businesses subject to the current patio restrictions within the Zoning and Development By-law to apply for a patio permit in 2022, as staff continue to work on changes, which will be reported out to Council this fall.

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DRAFT

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

**A By-law to amend
Zoning and Development By-law No. 3575
Regarding an Extension for Temporary Patios on Private Property**

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

1. This By-law amends the indicated provisions of the Zoning and Development By-law No. 3575.
2. In section 10.29A.1, Council strikes out “March 31, 2022” and substitutes “October 31, 2022”.