
Planning and Development Committee

Date: November 15, 2021
Time: 6:00 PM
Location: Council Chambers, Civic Centre, 2nd Floor
300 City Centre Drive, Mississauga, Ontario, L5B 3C1
And Online Video Conference

Members

Mayor Bonnie Crombie	
Councillor Stephen Dasko	Ward 1
Councillor Karen Ras	Ward 2
Councillor Chris Fonseca	Ward 3
Councillor John Kovac	Ward 4
Councillor Ron Starr	Ward 6 (Vice-Chair)
Councillor Dipika Damerla	Ward 7
Councillor Matt Mahoney	Ward 8
Councillor Sue McFadden	Ward 10
Councillor George Carlson	Ward 11 (Chair)
Councillor Carolyn Parrish	Ward 5 (ex-officio)
Councillor Pat Saito	Ward 9 (ex-officio)

Participate Virtually or In Person

Advance registration is required to participate in person and/or make comment in the virtual public meeting. Please email deputations.presentations@mississauga.ca no later than Friday, November 12, 2021 at 4:00 p.m. Any materials you wish to show the Committee during your presentation must be provided as an attachment to the email. Links to cloud services will not be accepted. You will be provided with directions on how to participate from Clerks' staff.

Participate Via Telephone

Residents without access to the internet, via computer, smartphone or tablet, can participate and/or make comment in the meeting via telephone. To register, please call Megan Piercey at 905-615-3200 ext. 4915 no later than Friday, November 12, 2021 at 4:00 p.m. You must provide your name, phone number, and application number if you wish to speak to the Committee. You will be provided with directions on how to participate from Clerks' staff.

Contact

Megan Piercey, Legislative Coordinator, Legislative Services
905-615-3200 ext. 4915
megan.piercey@mississauga.ca

PUBLIC MEETING STATEMENT: In accordance with the *Ontario Planning Act*, if you do not make a verbal submission to the Committee or Council, or make a written submission prior to City Council making a decision on the proposal, you will not be entitled to appeal the decision of the City of Mississauga to the Ontario Land Tribunal (OLT), and may not be added as a party to the hearing of an appeal before the OLT.

Send written submissions or request notification of future meetings to:

Mississauga City Council Att: Development Assistant
c/o Planning and Building Department – 6th Floor
300 City Centre Drive, Mississauga, ON, L5B 3C1
Or Email: application.info@mississauga.ca

1. **CALL TO ORDER**

2. **DECLARATION OF CONFLICT OF INTEREST**

3. **MINUTES OF PREVIOUS MEETING**

3.1. Planning and Development Committee Meeting Draft Minutes - November 8, 2021

4. **MATTERS TO BE CONSIDERED**

4.1. PUBLIC MEETING INFORMATION/RECOMMENDATION REPORT (ALL WARDS)

Temporary Patio and Temporary Outdoor Businesses Programs.
File: CD.21-TEMP

4.2. PUBLIC MEETING INFORMATION REPORT (WARD 2)

Rezoning application to permit 2 one-storey industrial buildings, north of Lakeshore Road West, east side of Avonhead Road.
Address: 551 Avonhead Road
Owner: 551 Avonhead GP Inc.
File: OZ 21/007 W2

4.3. PUBLIC MEETING INFORMATION REPORT (WARD 1)

Mississauga Official Plan Amendment for the Lakeshore Road East Corridor.
File: CD.03-LAK W1

4.4. PUBLIC MEETING RECOMMENDATION REPORT (WARD 2)

Official Plan Amendment and Rezoning applications to permit 6 townhomes, northwest of Lakeshore Road West and Lorne Park Road, at Albertson Crescent and Bramblewood Lane.
Address: 1110 Lorne Park Road
Owner: Jacan Construction Ltd. (LJM Developments)
File: OZ 19/006 W2

4.5. PUBLIC MEETING INFORMATION REPORT (WARD 4)

Official Plan Amendment and Rezoning applications to permit two 45 storey and one 37 storey apartment buildings with ground floor commercial uses, southwest corner of Eglinton Avenue West and Hurontario Street.
Address: 30 Eglinton Avenue West
Owner: 30 Eglinton Avenue West Limited (c/o Crown Property)
File: OZ 21/002 W4

5. **ADJOURNMENT**

City of Mississauga

Corporate Report



<p>Date: October 22, 2021</p> <p>To: Chair and Members of Planning and Development Committee</p> <p>From: Andrew Whittemore, M.U.R.P., Commissioner of Planning & Building</p>	<p>Originator's files: CD.21-TEM (All Wards) and CD.21-SPE (All Wards)</p> <hr/> <p>Meeting date: November 15, 2021</p>
--	---

Subject

PUBLIC MEETING INFORMATION/RECOMMENDATION REPORT (ALL WARDS)

Temporary Patio and Temporary Outdoor Businesses Programs

Files: CD.21-TEM and CD.21-SPE

Recommendation

1. That the proposed amendments to the by-laws and the waiver of fees, outlined in Appendix 4 of the report dated October 22, 2021, from the Commissioner of Planning and Building related to temporary outdoor patios and temporary outdoor businesses to allow them to operate until December 31, 2022, be approved, and that the necessary implementing by-laws be brought to a future City Council meeting.
2. That the Planning and Building Department report back on public submissions received and make recommendations on permanent regulations for patios and/or outdoor recreational/entertainment establishments.

Executive Summary

- The temporary use by-laws for outdoor patios and outdoor businesses need to be extended to continue to support Mississauga's businesses to the end of 2022.
- Planning and Building Department staff are considering options for the long-term regulation of patios and/or outdoor recreational/entertainment establishments.
- Consultation with relevant businesses and the public will be conducted prior to a recommendation report on the long-term regulations being brought before the Planning and Development Committee in 2022.

Background

TEMPORARY OUTDOOR PATIO PROGRAM

To support the restaurant industry in Mississauga during the COVID-19 pandemic, on July 8, 2020, Council passed Temporary Use By-law 0163-2020 to permit temporary outdoor patios accessory to restaurants, convenience restaurants and take-out restaurants in certain zones until December 31, 2020. An extension was subsequently approved by Council on November 11, 2020 through Temporary Use By-law 0233-2020 to permit the use until December 31, 2021. Reports associated with those approvals are included as Appendix 2 to this report.

To date, 24 patio permits have been approved to allow temporary patios on a public right-of-way. Since temporary patios on private lands do not require a patio permit, it is difficult to determine the total number of temporary patios across the City. However, approximately 100 inquiries were received regarding the temporary patio program, which indicates significant interest and success with the program.

PORT CREDIT CULTURAL NODE PATIO PROGRAM

Patios and retail sales are currently permitted on the public sidewalks and lay-by parking areas in Port Credit through the Port Credit Cultural Node project. Minor variance approval was originally granted in 2011 to permit the uses on a temporary basis, and based on its success, approval was subsequently renewed in 2012 and again in 2017. The current approval is set to expire on April 30, 2022. Separate approvals are required for wood structures through an encroachment agreement, which are not granted on a permanent basis, and only permit the encroachments between April 15 and October 15.

TEMPORARY OUTDOOR BUSINESSES PROGRAM

Apart from restaurants and patios, other businesses in Mississauga have expressed interest in operating outdoors, allowing for greater ability to physically distance. Examples include drive-in movie theatres, outdoor bingo halls and outdoor retail sales. Council passed Temporary Use By-law 0307-2020 on December 9, 2020 to permit temporary outdoor retail sales and temporary outdoor recreational/entertainment establishments in most commercial, Downtown Core, employment and open space zones until December 31, 2021. Reports associated with that approval are included as Appendix 3 to this report.

Comments

EXTENSION OF TEMPORARY PATIO AND TEMPORARY OUTDOOR BUSINESSES PROGRAMS

On July 16, 2021, the Province of Ontario entered Step 3 of the Roadmap to Reopen Plan, which resulted in a number of indoor and outdoor activities being permitted or permissions being altered. Indoor dining was permitted to resume, and on October 25, 2021 capacity limits were lifted for the majority of businesses requiring proof of vaccination, including restaurants and bars without dance floors. However, due to personal preferences of patrons, it may be advantageous

for restaurant owners to continue offering patio services outdoors. The Province has indicated that on November 15, 2021, it intends to further lift capacity limits in remaining businesses where proof of vaccination is required, including food or drink establishments with dance facilities.

Continuing to support businesses in Mississauga beyond the end of 2021 given the uncertainty of the impacts of the pandemic remains important. Staff are recommending that both of the temporary use by-laws for patios and outdoor businesses be extended for an additional year, expiring at the end of 2022. No changes are proposed to any of the previously approved temporary zoning regulations as they apply to these uses. However, the permitted zones are proposed to be slightly expanded to ensure that the Port Credit Cultural Node patio program is captured within the new temporary use by-laws. The encroachment agreement/patio permit programs will continue to apply if uses are being proposed in the public right-of-way. In addition, amendments to various City by-laws will be required to further extend waiving of fees or other requirements.

Temporary Outdoor Patio Program

Ontario Regulation 345/20, made under the *Reopening Ontario (A Flexible Response to COVID-19) Act 2020*, exempted temporary use by-laws related to patios from the requirements for providing public notice and holding a statutory public meeting.

The following are the by-laws that will require amendments for the temporary patio program. Details regarding the amendments are outlined in Appendix 4.

- Zoning By-law 0225-2007
- Prohibit Sale of Goods on Highways By-law 0127-1995
- Encroachment By-law 0057-2004
- Business Licensing By-law 0001-2006
- Noise Control By-law 0360-1979
- Building By-law 0203-2019
- User Fees and Charges By-law 0156-2019

For the temporary patio program, applicable fees under the User Fees and Charges By-law 0251-2020 were waived. The waiver of such fees will also be incorporated into the 2022 User Fees and Charges By-law which will replace the current by-law and is expected to be approved by Council before the end of 2021.

Temporary Outdoor Businesses Program

The temporary use by-law to extend the permissions for temporary outdoor retail sales and display and temporary outdoor recreational/entertainment establishments requires public notice, the holding of a statutory public meeting and is subject to potential appeal. The public meeting on November 15, 2021 fulfills the statutory requirements under the *Planning Act*.

In addition to the temporary use by-law, temporary outdoor retail sales and display and temporary outdoor recreational/entertainment establishments were given similar exemptions from the application of the above-noted City By-laws through the enactment of By-law 0306-2020. This by-law will be amended to extend the current repeal date of December 31, 2021 to December 31, 2022.

Public complaints regarding temporary patios or temporary outdoor businesses have been minimal during the pandemic. Only nine of the 1,400 noise complaints that were received by the City from October 2020 to September 2021, mention patios.

REGULATION OF PATIOS AND OUTDOOR BUSINESS ACTIVITIES ON A PERMANENT BASIS

Given the success of the temporary use by-laws, staff are considering more permanent changes to the regulation of patios, and/or outdoor recreational/entertainment establishments, including the patio program in Port Credit. Before the temporary use by-laws, none of the aforementioned outdoor uses were permitted in the City, with the exception of patios in some of the Downtown Core zones, and some site-specific permissions such as Port Credit.

Staff are reviewing the following options.

Option 1: Allow the temporary use by-laws to expire with no changes

The City can return to the regulations that applied before the pandemic, with none of the uses being permitted outdoors. Any request would be required to apply for a rezoning or minor variance application to permit the uses.

Option 2: Allow temporary patios, and/or temporary recreational/entertainment establishments to continue permanently

Except for temporary outdoor retail sales, the City can allow all of the uses that are currently permitted through the temporary use by-laws beyond 2022. The uses would still be limited to those being temporary in nature (i.e. can be easily removed or relocated and do not include permanent structures). The City could consider a licensing regime to regulate the number of days in a calendar year that they are permitted to operate. Staff will assess and monitor the effect on the more permissive parking regulation and may recommend further changes accordingly. In particular, staff are considering the impact to public on-street parking in the Business Improvement Area (BIA) districts and the Downtown, which may be significant if parking activity returns to pre-pandemic levels.

Option 3: Allow permanent patios

Unless it is located in one of the permissive Downtown Core zones, restaurants seeking a permanent on-site patio normally require a minor variance. This process allows public consultation and for the Committee of Adjustment to review the proposal and impose conditions of approval that may mitigate any impacts of the patio. These conditions include limitations on hours of operation, length of approval and/or music.

To mitigate anticipated impacts, staff will consider introducing a minimum separation distance from patios to residential zones similar to the 60 m (197 ft.) separation between restaurants and residential zones. Permanent patios located in parking areas may require a reduced parking rate since the patio would permanently reduce the supply of parking available on site.

Permanent patios may be required to obtain site plan approval. Business owners will be required to enter into an encroachment agreement with the City on any patio within the City's right-of-way. The City's Noise By-law and Property Standards By-law will continue to help address any related nuisance or maintenance related complaints.

Permanent patio structures are not being considered for public on-street parking spaces. The only consideration for the public right-of-way would be on a municipal sidewalk where there is adequate width to accommodate such a facility.

LAND USE POLICIES AND REGULATIONS

Appendix 1 contains relevant policies from the *Provincial Policy Statement* (PPS), *Growth Plan for the Greater Golden Horseshoe* (Growth Plan), the Region of Peel Official Plan (ROP) and Mississauga Official Plan (MOP) as they apply to the proposed temporary use by-laws. MOP contains policies regarding support for economic activities, distinct local communities and cultural identities, active public realms, and encouraging retail uses in Intensification Areas. Further, Section 19.9.1 of MOP contains specific policies in regards to temporary use by-laws, including criteria and conditions.

Upon review of the relevant policies, Planning and Building staff are of the opinion that the extension of the temporary use by-laws for outdoor patios, outdoor retail sales and outdoor recreational/entertainment establishments conform to MOP including the criteria for a temporary use by-law, represent good planning, and should be approved.

Engagement and Consultation

Should the extensions to the temporary use by-laws be approved, communications staff will coordinate appropriate messaging to affected businesses, and the City's website will be revised to reflect the changes. Staff can also modify the website to receive public input on the potential long-term regulation of patios and outdoor recreational/entertainment establishments. Engagement will include local BIAs, the Mississauga Board of Trade (MBOT), Mississauga Tourism and Restaurants Canada.

Financial Impact

Both the temporary patio and temporary outdoor businesses programs were intended to assist local businesses to offset loss of revenue during the pandemic. A number of City fees have, and will continue to be waived as part of the extension of the temporary programs.

The main financial impact will be continued reallocation of staff time to continue the implementation of the programs, decreased revenue due to occupied paid parking spaces, potential increased enforcement and increased cost of winter maintenance.

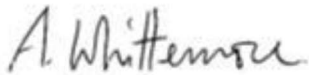
Depending on the City's approach to the long-term regulation of outdoor uses, the financial impacts and required staff resources will vary.

Conclusion

In summary, the proposed extension of the temporary use by-laws for outdoor patios and outdoor businesses are consistent with good planning. Continuing to support Mississauga's businesses as the pandemic continues beyond 2021 will contribute to the City's recovery and should be approved. In addition, once the public meeting has been held, and input has been received from the public and businesses, the Planning and Building Department will present recommendations regarding the long-term regulation of patios, outdoor retail sales and outdoor recreational/entertainment establishments.

Attachments

- Appendix 1: Detailed Information and Preliminary Planning Analysis
- Appendix 2: Supplementary Recommendation Report – Temporary Outdoor Patios
- Appendix 3: Public Meeting Information/Recommendation Report – Outdoor Business Activities
- Appendix 4: Necessary Amendments to City By-laws



Andrew Whittemore, M.U.R.P., Commissioner of Planning & Building

Prepared by: Jordan Lee, Planner

Detailed Information and Preliminary Planning Analysis
City Initiated Zoning By-law Amendment

Table of Contents

1. Summary of Applicable Policies, Regulations and Proposed Amendments..... 2

2. Next Steps 7

1. Summary of Applicable Policies, Regulations and Proposed Amendments

The *Planning Act* requires that Mississauga Official Plan be consistent with the Provincial Policy Statement and conform with the applicable provincial plans and Regional Official Plan. The policy and regulatory documents that affect these potential amendments have been reviewed and summarized in the table below. Only key policies relevant to the amendments have been

included. The table should be considered a general summary of the intent of the policies and should not be considered exhaustive. In the sub-section that follows, the relevant policies of Mississauga Official Plan are summarized. The potential amendments will be evaluated based on these policies in the subsequent recommendation report.

Policy Document	Legislative Authority/Applicability	Key Policies
Provincial Policy Statement (PPS)	<p>The fundamental principles set out in the PPS apply throughout Ontario. (PPS Part IV)</p> <p>Decisions of the council of a municipality shall be consistent with PPS. (PPS 4.1)</p> <p>The Official Plan is the most important vehicle for implementation of the Provincial Policy Statement (PPS 4.6)</p>	<p>Healthy, liveable and safe communities are sustained by: a) promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long-term (PPS 1.1.1)</p> <p>Land use patterns within <i>settlement areas</i> shall be based on densities and a mix of land uses which: a) efficiently use land and resources (PPS 1.1.3.2)</p> <p>Planning authorities shall promote economic development and competitiveness by: b) providing opportunities for a diversified economic base, including maintaining a range and choice of suitable sites for employment uses which support a wide range of economic activities and ancillary uses, and take into account the needs of existing and future businesses (PPS 1.3.1)</p> <p>Long-term economic prosperity should be supported by: a) promoting opportunities for economic development and community investment-readiness; d) maintaining and, where possible, enhancing the vitality and viability of downtowns and mainstreets; h) providing opportunities for sustainable tourism development (PPS 1.7.1)</p>
Growth Plan for the Greater Golden Horseshoe (Growth Plan)	<p>The Growth Plan applies to the area designated as the Greater Golden Horseshoe growth plan area. All decisions made on or after May 16, 2019 in respect of the exercise of any authority that affects a planning matter will conform with this Plan, subject to any legislative or regulatory provisions providing otherwise. (Growth Plan 1.2.2)</p>	<p>Within settlement areas, growth will be focused in delineated built-up areas; strategic growth areas; locations with existing or planned transit; and, areas with existing or planned public service facilities. (Growth Plan 2.2.1.2 c)</p> <p>Economic development and competitiveness in the GGH will be promoted by: d) integrating and aligning land use planning and economic development goals</p>

Policy Document	Legislative Authority/Applicability	Key Policies
		<p>and strategies to retain and attract investment and employment (Growth Plan 2.2.5.1)</p> <p>Retail and office uses will be directed to locations that support active transportation and have existing or planned transit (Growth Plan 2.2.5.3)</p>
Parkway Belt West Plan (PBWP)	The policies of MOP generally conform with the PBWP.	Public open space and buffers and uses incidental to them will be permitted in areas designated 'Public Use Area'.
Region of Peel Official Plan (ROP)	The Region of Peel approved MOP on September 22, 2011.	<p>The ROP identifies the subject lands as being located within Peel's Urban System.</p> <p>General objectives of ROP, as outlined in Section 5.3, include establishing healthy complete communities and a mix of land uses in appropriate areas that efficiently use land, services, infrastructure and public finances, while taking into account the characteristics of existing communities and services, and achieving an urban form and densities that are pedestrian-friendly and transit supportive.</p>

Mississauga Official Plan

The policies of Mississauga Official Plan (MOP) implement provincial directions for growth. MOP is generally consistent with the PPS and conforms with the Growth Plan, Greenbelt Plan, PBWP and ROP. An update to MOP is currently underway

to ensure MOP is consistent with and conform to changes resulting from the recently released Growth Plan, 2019 and Amendment No. 1 (2020).

Relevant Mississauga Official Plan Policies

The following policies are applicable in the review of these potential amendments. In some cases the description of the general intent summarizes multiple policies.

	General Intent
Chapter 5 Direct Growth	<p>Mississauga will maintain an adequate supply of lands for a variety of employment uses to accommodate existing and future employment needs. (Section 5.3.6.1)</p> <p>Mississauga will maintain a sustainable, diversified, employment base by providing opportunities for a range of economic activities. (Section 5.3.6.2)</p> <p>Employment uses that support opportunities for residents to work in Mississauga will be encouraged. (Section 5.3.6.3)</p>
Chapter 7 Complete Communities	<p>When making planning decisions, Mississauga will identify, maintain and enhance the distinct identities of local communities by having regard for the built environment, natural or heritage features, and culture of the area. (Section 7.1.10)</p> <p>Mississauga will support cultural development by considering the needs of the cultural community when: c. allowing for arts and cultural uses and activities within the public realm (e.g. public art, festivals) (Section 7.5.3)</p> <p>Mississauga will strive to protect and enhance the desirable character of areas with distinct identities and encourage the development of distinct identities for other areas. (Section 7.6.1.1)</p>
Chapter 9 Build A Desirable Urban Form	<p>Mississauga will transform the public realm to create a strong sense of place and civic pride. (Section 9.1.8)</p> <p>The public realm will be planned to promote healthy, active communities that foster social connections at all stages of life and encourage built and natural settings for recreation, culture and active transportation. (Section 9.3.5.9)</p> <p>Display areas are to be an integral part of the overall site design and evaluated based on their impact on the streetscape. (Section 9.5.4.7)</p>
Chapter 10 Foster a Strong Economy	<p>Mississauga will encourage a range of employment opportunities reflective of the skills of the resident labour force. (Section 10.1.1)</p>

	General Intent
	<p>To encourage economic development and competitiveness, Mississauga will ensure the necessary infrastructure, for which it is responsible, is provided to support current and forecasted employment needs. (Section 10.1.7)</p> <p>Retail uses are encouraged to locate primarily within the Downtown, Major Nodes and Community Nodes. (Section 10.4.1)</p>
Chapter 19 Implementation	<p>City Council may pass by-laws to authorize the temporary use of land for a purpose that is otherwise prohibited by the zoning by-law, as permitted by the provisions of the <i>Planning Act</i>. (Section 19.9.1)</p> <p>A temporary use which conforms to this Plan may be permitted by a temporary use by-law to allow: a. an unfamiliar use on a trial basis (Section 19.9.2)</p> <p>The following conditions will apply to all uses permitted by a temporary use by-law (Section 19.9.3):</p> <ul style="list-style-type: none"> a. extensions of the period of temporary use may be permitted by subsequent by-laws but should generally not continue for more than three years as per the <i>Planning Act</i>; b. no new buildings or expansions of buildings, except for temporary or movable structures will be permitted; c. the temporary use permitted must be compatible with adjacent land uses, or measures to mitigate any adverse impacts must be applied; d. no adverse impacts on traffic or transportation facilities in area result, and sufficient parking must be provided on-site; g. the temporary use will not jeopardize the eventual planned use; and h. temporary buildings must conform to the property standards by-law

Potential Zoning Regulations

Options	Potential Amendments
Option 1 – Allow the temporary use by-laws to expire with no changes	<ul style="list-style-type: none"> - Outdoor patios are permitted in CC1-CC4, CCO zones accessory to a restaurant, take-out restaurant or retail store where the primary function is the sale of food
Option 2 – Allow temporary patios and/or temporary recreational/entertainment establishments to continue	<p>Patios:</p> <ul style="list-style-type: none"> - Permitted in O1-O3, C1-C4, H-CC1-H-CC4, H-CCO, CC1-CC4, CCO, E1-E3 zones - Not permitted on landscaped areas or landscaped buffers - Minimum setback from residential zones – 6.0 m (19.7 ft.) - Minimum percentage of required parking spaces that shall remain available for use – 80% - Minimum percentage of required accessible parking spaces that shall remain available for use – 100% - Minimum distance from accessible parking spaces to edge of patio – 1.0 m (3.3 ft.) - Patio shall not obstruct driveways, parking aisles and pedestrian walkways <p>Outdoor Recreational Establishment and Outdoor Entertainment Establishment:</p> <ul style="list-style-type: none"> - Permitted in C2-C4, H-CC1-H-CC4, CC1-CC4, H-CCO, CCO, H-CCOS, CCOS, E1, E2, OS1, OS2, PB1-6 zones - Maximum number of consecutive days and maximum number of days within one calendar year for temporary tent and/or stage – not applicable - Minimum distance from a Residential zone to edge of outdoor recreational establishment and outdoor entertainment establishment – 4.5 m (14.8 ft.) - Minimum percentage of required parking spaces that shall remain available for use – 80% - Minimum percentage of required accessible parking spaces that shall remain available for use – 100% - Minimum distance from accessible parking spaces to edge of outdoor recreational establishment and outdoor entertainment establishment – 1.0 m (3.3 ft.) - Outdoor recreational establishment and outdoor entertainment establishment shall not obstruct pedestrian walkways
Option 3 – Allow permanent patios	<ul style="list-style-type: none"> - Permitted in O1-O3, C1-C4, H-CC1-H-CC4, H-CCO, CC1-CC4, CCO, E1-E3 zones - Minimum separation distance to Residential zone – 60.0 m (196.9 ft.)

Options	Potential Amendments
	<ul style="list-style-type: none">- Not permitted on landscaped areas or landscaped buffers- Patio shall not obstruct driveways, parking aisles and pedestrian walkways- Minimum distance from accessible parking spaces to edge of patio – 1.0 m (3.3 ft.)

2. Next Steps

Based on the comments received and the applicable Mississauga Official Plan policies, the Planning and Building Department will bring forward a recommendation report to a future Planning and Development Committee meeting.

File tag save this document to K:\PLANDEV\CONT\L\GROUP\WPDATA\PDC Information Report Appendix

City of Mississauga

Corporate Report



<p>Date: October 19, 2020</p> <p>To: Mayor and Members of Council</p>	<p>Originator's file: CD.21-TEM</p>
<p>From: Andrew Whittemore, M.U.R.P., Commissioner of Planning & Building</p>	<p>Meeting date: November 11, 2020</p>

Subject

SUPPLEMENTARY RECOMMENDATION REPORT (All Wards)Public Meeting
Covid-19 Recovery – Support for Temporary Outdoor Patios File CD.21-TEM

Recommendation

1. That Council amend Temporary Use By-law 0163-2020 to permit temporary outdoor patios accessory to all types of restaurants to December 31, 2021, in accordance with the updated regulations in the staff report dated October 19, 2020, from the Commissioner of Planning and Building.
2. That amendments to the By-laws set out in the staff report dated October 19, 2020, and any other necessary amendments to By-laws related to temporary outdoor patios to allow them to operate at no cost until December 31, 2021, be approved.

Report Highlights

- The temporary patio program could be extended until December 31, 2021, and include permission for temporary tents to address the need for winter shelter
- Permitting temporary tents will require inspections by the Fire and Emergency Services ("Fire") with respect to type of material used and type and location of heat sources
- If approved, By-law Enforcement Officers will begin inspections of patio enclosures on public rights-of-way and on private property immediately
- Winter maintenance and the costs associated with enhanced snow removal will increase if temporary patios and/or tents are located on the municipal right-of-way over the winter months

Background

On July 8, 2020, Council passed Temporary Use By-law 0163-2020 to permit outdoor patios accessory to restaurants, convenience restaurants and take-out restaurants in certain Zones within the City of Mississauga until December 31, 2020. At the same meeting, a temporary patio program was endorsed to allow restaurants to install patios on public lands (right-of-way sidewalks outside the storefront and/or in on-street parking spaces). This program is set to expire on November 15, 2020.

In support of the temporary patio program several amendments to City By-laws were also adopted by Council. Specifically, these enabled fees for encroachments, noise by-law exceptions and business licensing to be waived, and the sale of goods on public roadways was permitted.

Since the Council meeting held on July 8, 2020, staff received numerous inquiries from a diverse group of businesses across all wards, including bars, restaurants, banquet halls and convention centres, cultural centres, bakeries and lounges. In total, there was 52 inquiries for patios on private lands, and 17 for public lands. Staff estimate that 75 patios were installed on private property, for which no municipal approvals were required. A total of nine temporary permits were issued to businesses for patios on public rights-of-way.

Generally, the program was successful. While staff received some complaints from members of the public and business owners, these primarily related to businesses not complying with the Provincial Regulations and/or the City's Temporary Patio Design Guidelines. As example, on private lands some patios were placed over accessible parking spaces and interfered with pedestrian walkways, while others related to blocked parking spots. Generally, these complaints were addressed by the property owners or management companies.

Other complaints related to the construction of platforms for temporary patios on private lands and on public rights-of-way. By-law Enforcement staff responded to 311 calls to ensure these platforms did not require building permits. If relevant, the restaurant owner was directed to Realty Services to sign up for the Port Credit Cultural Node patio program.

Comments

As of October 10, 2020, the Province of Ontario issued new restrictions for restaurants and bars that prohibit indoor dining, for a second time. As a result, local restaurant businesses continue to experience reduced revenues and seek the City's support to assist the hospitality industry. Specifically the continuation of the temporary program and provision for an ability to utilize tents is desired.

EXTENSION OF THE TEMPORARY USE BY-LAW

Staff propose to extend the existing temporary by-law with amendments. This entails a new expiry date of December 31, 2021, and adding a provision for temporary tents to existing zoning regulations. Specifically, the definition of a temporary outdoor patio will be amended to include the words "that may be covered by a temporary tent".

With respect to the permission of tents, Provincial regulations state that patios are to be open air, but if it is covered by a roof, canopy, tent, awning or other element, at least two full sides of the outdoor dining area must be open to the outdoors, and must not be substantially blocked by any walls or other impermeable physical barriers. The City of Mississauga does not have authority to alter or change the Provincial regulations.

Typically, a tent on private property would require a site plan approval express review and approval by Development and Design staff, however staff recommend that this requirement be waived for tents on temporary outdoor patios.

It should also be noted, where a business proposes a temporary tent attached to, or located within 3 m (9.5 ft.) of a building, and if they are greater than 60 m² (645 ft²) in size, a building permit would be required. Council may elect to waive the building permit fee in these cases.

Additionally, a recent trend occurring throughout many cities has been the use of "dining bubbles". It is staff's position that a dining bubble would not meet the provincial regulations as currently set out. However, should this change at some point, a dining bubble would be in compliance with the temporary patio by-law.

The proposed changes and extension of the temporary use by-law is consistent with the Provincial Policy Statement, conforms to the Growth Plan, the Region of Peel Official Plan and Mississauga Official Plan, and represents good planning.

EXTENSION OF TEMPORARY PATIO PROGRAM ON PUBLIC RIGHTS-OF-WAY

There are 21 legal patios installed in the road allowance in Port Credit (14), Streetsville (six) and Clarkson (one). These patios are permitted under both the temporary patio program and the Port Credit Cultural Node patio program.

Any winter weather event will present unique maintenance challenges for Works Operations and Maintenance. As example, the use of automated sidewalk snow clearing equipment will be difficult, and additional handwork with crews manually shovelling the priority sidewalks will be required. Patios within the public ROW will also impact the City's ability to store snow in the road allowance. Consequently, additional snow removal efforts using a combination of specialized equipment and labour will be required.

Additional costs are anticipated should a winter event occur that requires salting and/or plowing of the roadway and priority sidewalks. In addition, Council-approved winter maintenance service

level timelines for major roads and priority sidewalks may be negatively impacted due to the obstruction the patios present.

However, business owners will be responsible for clearing all snow and/or ice from their patio, including the entry and exit points for the patio and restaurant.

OTHER CONSIDERATIONS

With the extension of the Temporary Use By-law, and the new provision for temporary tents, staff anticipate the use of heaters during the winter months. Staff recommend an enforcement program that focuses on public safety and the compliance with Provincial regulations, as outlined in the following sections.

Fire and Emergency Services - Patio Heater Guidelines

Gas fired commercial tent heaters that are located external to a temporary tent and which pump heat into the tent would be permitted. Commercial grade and professionally installed electrical heaters located inside a temporary tent would also be permitted, however, no power cords may cross a municipal sidewalk. All types of heaters will be subject to Fire inspection and approval.

Propane and natural gas patio heaters which are designed for outdoor use only, will not be permitted within an enclosed structure, such as a tent. Patio Heater Safety Guidelines prepared by the Technical Standards & Safety Authority (TSSA) provide this guidance.

Tents shall meet the design specifications of the Ontario Fire Code. Tents greater than 30 m² (323 ft²) shall also meet Flameproofing Treatment requirements of the Ontario Fire Code, along with any other applicable fire code requirements.

Enforcement

By-law Enforcement Officers will begin inspections of patio enclosures on public rights-of-way immediately upon their approval by the City. As well, inspections will respond to complaints received through the public, and will be proactively undertaken in specific locations during high use times and periods of inclement weather.

Inspections of tents located on private lands will occur on a complaint basis, or when identified by staff as part of their proactive inspection. When Enforcement staff note the presence of a temporary tent, with or without a heater, they will contact Fire Inspection for follow-up. For large tents, or those attached to or within 3 m (10 ft.) of a building, By-law Enforcement will contact Building staff for follow-up.

By-law Enforcement will initially provide Notices of Contravention for patio enclosures that are non-compliant with either the Provincial Regulations or the City's Conditions for Temporary Patios. This may escalate to Provincial Offence Notices for repeated violations, where applicable. Officers will also provide enforcement of any noise exemptions that may be approved for patios.

OTHER TEMPORARY BY-LAW AMENDMENTS

Other City of Mississauga By-laws that require amendments to continue to facilitate temporary outdoor patios are regulated under other Provincial Acts. All proposed amendments will have the same expiration date of December 31, 2021, and any required fees for tents that have already been installed will be refunded, retroactive to October 10th, which was the date that the Region of Peel was put into a Modified Stage 2 by the Province. The proposed changes are as follows:

By-law	July 2020 Changes	November 2020 Change
Prohibit Sale of Goods on Highways By-law (0127-1995)	Exempt Public Highways adjacent to Office (O), Commercial (C1-C4), Employment (E2), and all relevant exception zones and Employment in Nodes - Exceptions (E1-Exceptions) zones where all types of restaurants are permitted by the zoning.	Extend exemption to December 31, 2021.
Encroachment By-law (0057-2004)	Add temporary outdoor patios as an exception to the regulation that prohibits encroachment onto a public highway. Waive all permit application fees and fees for agreements authorizing temporary patios on public lands or City rights-of-way.	Extend exceptions to December 31, 2021.
Business Licensing By-law (0001-2006)	Waive the requirements for a fee payment and a Zoning Certificate.	Extend exemptions to December 31, 2021.
Noise Control By-law (0360-1979)	Waive fees for an application for an exemption from the provisions of the By-law.	Extend changes to December 31, 2021.
Building By-law (0203-2019)	N/A	Waive permit fees for a temporary tent, to expire on December 31, 2021. An amending By-law will be brought to Council on November 25 th .

By-law	July 2020 Changes	November 2020 Change
User Fees and Charges By-law (0156-2019)	N/A	Waive relevant fees in all applicable Schedules, to expire on December 31, 2021.

COMMUNITY ENGAGEMENT

Ontario Regulation 345/20, issued under the *Reopening Ontario Act 2020*, exempted temporary use by-laws from the requirements for providing public notice and holding a statutory public meeting. However, notice of the passing of the By-law will be provided by the Office of the City Clerk, and Communications staff will coordinate a press release and will provide updates on the City's website.

Financial Impact

The temporary patio program is intended to assist local restaurants in their economic recovery. Although a number of City fees will be waived as part of the continuation of the temporary outdoor patio initiatives, the fees would not normally have been collected and would not have been included as part of the City's revenue stream.

The main financial impacts will be the reallocation of staff time to facilitate the continued implementation of the temporary outdoor patio program, increased enforcement costs and the increased cost of winter maintenance.

The following table shows the average number of winter events in the last three years by specific time frame, as well as estimated additional costs for increased sidewalk handwork and road allowance snow removal:

Time Period	Salting and Plowing Events – Three Year Average	Estimated Additional Costs
November 16 th to December 31 st	10	\$30,000
January 1 st to April 15 th	40	\$120,000
Total	50	\$150,000

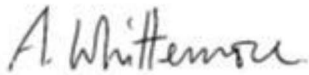
The estimated additional costs for winter maintenance as a result of extending the patio season to December 31, 2021, assuming all 21 legalized patios remain, is approximately \$30,000 for 2020 and \$150,000 for 2021. These costs are estimates only and could increase or decrease, depending on the number of winter events and the number of patios that are located in the road allowance.

Conclusion

The proposed amendments and extension of the Temporary Use By-law and temporary amendments to other City of Mississauga By-laws are consistent with good planning. The regulations will allow legal restaurants to maintain their temporary outdoor patios through the cooler weather at no cost to the businesses, and this will contribute to the City of Mississauga's overall plan for recovery from the COVID-19 pandemic.

Attachments

Appendix 1: Information Report dated July 8, 2020



Andrew Whitemore, M.U.R.P., Commissioner of Planning & Building

Prepared by: Lisa Christie, Special Projects Planner; Daniel Grdasic, Planning Associate;
Brandon Eidner, Planning Associate

City of Mississauga

Corporate Report



<p>Date: June 15, 2020</p> <p>To: Chair and Members of Planning and Development Committee</p>	<p>Originator's files: CD.21-TEM</p>
<p>From: Andrew Whittemore, M.U.R.P., Commissioner of Planning & Building</p>	<p>Meeting date: July 8, 2020</p>

Subject

PUBLIC MEETING INFORMATION/RECOMMENDATION REPORT (All Wards) Covid-19 Recovery – Support for Temporary Outdoor Patios File: CD.21-TEM

Recommendation

1. That Planning and Development Committee recommend to Council to permit temporary outdoor patios, accessory to all types of restaurants for a period of time expiring on December 31, 2020, through a temporary use by-law in accordance with the regulations contained in the staff report dated June 15, 2020 from the Commissioner of Planning and Building.
2. That time limited amendments to the following City by-laws be approved in accordance with the regulations contained in the staff report dated June 15, 2020:
 - (i) Prohibit Sale of Goods on Highways By-law 0127-1995
 - (ii) Encroachment By-law 0057-2004
 - (iii) Business Licensing By-law 0001-2006
 - (iv) Noise Control By-law 0360-1979

Background

A meeting was held by Council on June 17, 2020, at which time a Report was received for information (see Appendix 1) and to give direction to staff to hold a statutory public meeting with respect to a temporary use by-law. Resolution 0191-2020 was adopted by Council on the same day.

Originator's file: CD.21-TEM

1. That Council authorize City staff to prepare a Temporary Use By-law effective to December 31, 2020, to permit outdoor patios accessory to all types of restaurants on adjacent private and public lands.
2. That Council authorize staff to prepare by-laws to amend the following City by-laws so as to not conflict with the provisions of the proposed Temporary Use By-law:
 - i. the Prohibit Sale of Goods on Highways By-law 127-95 to temporarily permit business operations on a public highway;
 - ii. the Encroachment By-law 57-04 to allow temporary outdoor patios accessory to all types of restaurants to temporarily infringe on a public highway;
 - iii. the Business Licensing By-law 001-2006 to allow temporary outdoor patios on private property to comply with zoning requirements;
 - iv. the Fees and Charges By-law 0156-2019 to allow an application for a temporary outdoor patio to be processed without charge.
3. That Council direct staff, upon the issuance of notice for the statutory public meeting to consider the temporary use by-law, to suspend the enforcement of those zoning by-law provisions which currently prohibit or regulate outdoor patios accessory to all types of restaurants on private and public lands and that the suspension continue until the temporary use zoning by-law comes into force or until the duration stipulated for the temporary use zoning by-law expires, as may be the case.
4. Notwithstanding planning protocol, that a recommendation report from the Commissioner of Planning and Building be scheduled for a Planning and Development Committee meeting to be held on July 8, 2020, to conduct a public meeting to meet the statutory requirements under the provisions of the Planning Act.

Comments

Since the Council meeting on June 17th, 2020, the Provincial Government moved the Region of Peel to Stage 2 of the Reopening Ontario framework. This step means that restaurants can now open for dining in outdoor areas only. The City's initiative to permit temporary outdoor patios on private property, curbside, parking lots and adjacent premises is consistent with the Provincial regulations and guidelines.

In anticipation of the move to Stage 2, and to accommodate the time required to convene a statutory public meeting to consider the temporary use by-law, Council passed Resolution 0192-2020, also on June 17th. This resolution suspended enforcement of the zoning by-law regulations that prohibit outdoor patios accessory to all types of restaurants. This waiver commenced upon publication of the notice for the statutory public meeting, and continues until the temporary use by-law comes into force or until the duration of the temporary use by-law expires.

Originator's file: CD.21-TEM

Since the City moved into Stage 2, staff has taken a number of steps to assist local restaurants on the road to economic recovery from the Covid-19 pandemic. These measures include:

- creating a website with quick links to each process (permission for patios on public or private property)
- creating a Temporary Patio Permit program to expedite the approval of the patios on public property/road allowances
- creating detailed design guidelines for temporary patios on private property
- creating a detailed communications plan
- dedicating staff resources to work solely on this program

COMMUNITY ENGAGEMENT

Notice of the Public Meeting was placed in the Mississauga News on June 18th, 2020, in compliance with the regulations of the *Planning Act*. The notice was also sent by email to the City's Business Improvement Areas, MIRANET, the Mississauga Board of Trade and Tourism Mississauga. Some Ward Councillors were also able to use their office contact lists/websites to further advertise the statutory public meeting.

In lieu of a typical community meeting, staff attended meetings with representatives from all the BIAs, as well as with Tourism Mississauga to answer questions and help promote the pending process for temporary patios. Staff also attended a webinar hosted by the Economic Development Office and the Mississauga Board of Trade.

TEMPORARY USE BY-LAW

The Temporary Use By-law is regulated under the *Planning Act*. In Section 19.2 of Mississauga Official Plan, a temporary use which conforms to Mississauga Official Plan is permitted to deal with unfamiliar issues on a trial basis. Outdoor patios as a generally permitted use throughout the City is an unfamiliar use based on historic zoning restrictions and business practices. The temporary permission to allow them in parking lots associated with all types of restaurants and within public rights of way conforms to Mississauga Official Plan. Under this policy, the temporary use zoning amendment is consistent with the *Provincial Policy Statement*, and conforms to the *Growth Plan for the Greater Golden Horseshoe* and the Region of Peel Official Plan. The *Greenbelt Plan* and *Parkway Belt Plan* policies do not apply.

The regulations recommended for temporary patios in the proposed temporary use by-law are as follows:

- permission for an outdoor patio accessory to all types of restaurants where Zoning By-law 0225-2007, as amended, does not permit this use in zones O (Office) and exception zones, C1 to C4 (Commercial) and exception zones, E1 to E3 (Employment) and exception zones and H-CC1 to H-CC4 and H-CCO and exception zones where any type of restaurant is permitted
- temporary patios shall not be permitted on required landscaped areas or landscaped buffers

Originator's file: CD.21-TEM

- temporary patios shall maintain a setback of 6.0 m (19.7 ft.) from residential zones
- temporary patios shall not occupy more than 50% of required parking spaces
- temporary patios shall not occupy any accessible parking spaces
- temporary patios shall not obstruct driveways or parking aisles
- waive the requirement for a Certificate of Occupancy
- the temporary use by-law shall expire on December 31, 2020

OTHER TEMPORARY BY-LAW AMENDMENTS

Other City by-laws that require amendment to facilitate the installation of temporary patios are regulated under the *Municipal Act* and, unlike amendments to the Zoning By-law, do not require public notice. All proposed amendments will have the same expiration date of December 31, 2020. The proposed changes are as follows:

Prohibit Sale of Goods on Highways By-law 0127-1995

- exempt Public Highways adjacent to Office (O), Commercial (C1-C4), Employment (E2) and all relevant exception zones and Employment in Nodes - Exceptions (E1-Exceptions) zones where all types of restaurants are permitted by the zoning

Encroachment By-law 0057-2004

- add temporary outdoor patios as an exception to the regulation that prohibits encroachment onto a public highway
- add an exception to remove the requirement for payment of a non-refundable fee

Business Licensing By-law 0001-2006

- waive the requirements for a fee payment and a Zoning Certificate

Noise Control By-law 0360-1979

- waive fees for an application for an exemption from the provisions of the By-law

Financial Impact

Although a number of City fees will be waived as part of the temporary outdoor patio initiative, the fees would not normally have been collected and would not have been included as part of the City's revenue stream. The patio program is intended to assist local restaurants in their economic recovery. Fees related to permitting patios were not anticipated in this year's budget. The main financial impact will be the reallocation of staff time to facilitate the successful implementation of the temporary outdoor patio program.

Conclusion

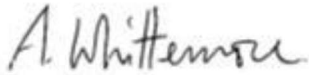
In summary, the proposed regulations for the Temporary Use By-law and temporary amendments to other City by-laws are consistent with good planning. The regulations allow legal restaurants to expand in a reasonable manner, consistent with Provincial guidelines.

Originator's file: CD.21-TEM

These actions will contribute to the City of Mississauga's overall plan for recovery from the Covid-19 pandemic, and should be approved.

Attachments

Appendix 1: Information Report



Andrew Whitemore, M.U.R.P., Commissioner of Planning & Building

Prepared by: Lisa Christie, Special Projects Planner

Date: June 12, 2020 To: Mayor and Members of Council	Originator's files: CD.21-TEM
From: Andrew Whittemore, M.U.R.P., Commissioner of Planning & Building	Meeting date: June 17, 2020

Subject

Covid-19 Recovery – Support for Temporary Outdoor Patios

Recommendation

1. That Council authorize City staff to prepare a Temporary Use By-law effective to December 31, 2020, to permit outdoor patios accessory to all types of restaurants on adjacent private and public lands.
2. That Council authorize staff to prepare by-laws to amend the following City by-laws so as to not conflict with the provisions of the proposed Temporary Use By-law:
 - i. the Prohibit Sale of Goods on Highways By-law 127-95 to temporarily permit business operations on a public highway;
 - ii. the Encroachment By-law 57-04 to allow temporary outdoor patios accessory to all types of restaurants to temporarily infringe on a public highway;
 - iii. the Business Licensing By-law 001-2006 to allow temporary outdoor patios on private property to comply with zoning requirements;
 - iv. the Fees and Charges By-law 0156-2019 to allow an application for a temporary outdoor patio to be processed without charge.
3. That Council direct staff, upon the issuance of notice for the statutory public meeting to consider the temporary use by-law, to suspend the enforcement of those zoning by-law provisions which currently prohibit or regulate outdoor patios accessory to all types of restaurants on private and public lands and that the suspension continue until the temporary use zoning by-law comes into force or until the duration stipulated for the temporary use zoning by-law expires, as may be the case.
4. Notwithstanding planning protocol, that a recommendation report from the Commissioner of Planning and Building be scheduled for a Planning and Development

Committee meeting to be held on July 8, 2020, to conduct a public meeting to meet the statutory requirements under the provisions of the *Planning Act*.

Background

In an effort to protect public health and safety during the COVID-19 pandemic, the Province announced a shutdown of all non-essential services across Ontario on March 17th, 2020.

Mississauga's local businesses have experienced reduced revenues that have led to business closures, employee layoffs, inability to pay rents, and reduced operating hours. Some food service providers have increased their online presence, and have adapted their business models to offer delivery and new curbside pick-up opportunities.

In May 2020, the Economic Development Office and the Mayor's Office engaged BIAs in a discussion about economic impacts of the pandemic and opportunities for the City to provide support to local businesses. One suggestion for assistance was that the City could provide support for temporary patios without the need for either a minor variance or a rezoning and the site plan approval process. A letter submitted by MBOT also sought Council's assistance in support of patio expansions.

On June 8, 2020 the Province amended regulations under the *Liquor Licence Act* and waived fees to permit licenced establishments to temporarily add or extend patios adjacent to their premises until January 1, 2021, provided they have municipal approval.

In addition, on June 11, 2020 the Province issued O.Reg.263/20 – Stage 2 Closures, which permits restaurants, bars, food trucks and other food establishments to open for in-person dining, only in outdoor dining areas located in or adjacent to the place of business. Physical distancing is required between tables and singing and dancing is prohibited on patios.

Outdoor patios ("patios") are not permitted accessory to any type of restaurant as-of-right in Zoning By-law 0225-2007 ("the By-law"). Patios are only currently permitted on private property in the Downtown Core and in Port Credit as an accessory use to a restaurant or take-out restaurant, where there is a specific program in place for the use of private land contiguous to a building on a sidewalk, and for use of public land (lay-by parking spaces). Patios are also permitted accessory to restaurants where a minor variance or exception zone has allowed the use.

Comments

Canadian municipalities including Winnipeg and Edmonton have begun to implement temporary patio programs that waive applicable permits, fees and relaxed zoning requirements during the COVID-19 recovery period. Ontario municipalities including Oakville, Hamilton and Kingston have received council endorsement for patio implementation plans to be used when restaurants are permitted to reopen.

On June 10, 2020, Council passed Resolution 0175-2020:

That Council direct staff to schedule a public meeting and prepare a report related to the use of a temporary zoning by-law to allow restaurant patios on private and public property to utilize outdoor spaces to accommodate seating for customers.

In advance of receiving Provincial direction that the Region of Peel is moving into Stage 2 such that restaurants are permitted to resume table service in outdoor dining areas, City staff will prepare a temporary use by-law and the necessary amending by-laws to permit outdoor patios accessory to all types of restaurants on both municipally-owned and private lands until December 31, 2020.

Temporary Zoning Considerations

In order to permit patios on lands where restaurants are permitted, the zoning by-law must be amended to allow the use. In response to social distancing requirements of the pandemic, it is proposed that they be permitted as-of-right in certain zones on a temporary basis.

Planning staff propose that patios be permitted in all zones that permit restaurants, take-out restaurants and convenience restaurants through a Temporary Use By-law. The zones that would be included are four commercial zones (C1 to C4), the Office (O) zone and one employment zone (E2), including all associated exception zones. Another employment zone (E1) has a number of exception zones that permit restaurants, and these would also be included. This permission would include municipally owned land, such as municipal parking lots where they are adjacent to lands that permit restaurants. The Temporary Use By-law would not permit patios where a restaurant is currently prohibited by an Exception Zone.

As example, the temporary use by-law would permit restaurants within strip malls to establish a temporary patio, including the use of some of the existing parking, where this is agreed upon by plaza management. Alternatively, a restaurant facing a public street could use the portion of its own property for a temporary patio; however, if they wish to use a portion of the sidewalk or street, they would only be able to do this upon entering into an encroachment agreement with the City.

Proposed Zoning Regulations

To expedite the approval of patios, staff recommend that the following set of zoning regulations be applied to each patio:

- i) not permitted on required landscaped areas or landscaped buffers
- ii) maintain a setback of 6.0 m (19.7 ft.) from residential zones
- iii) may occupy up to 50% of required parking spaces but not accessible parking spaces
- iv) may not obstruct a driveway or parking aisle

Roads & Right of Ways:

The Temporary Use By-law would not apply to municipally owned public highways, as they do not have zoning. Proposed patios on municipal roads will require an encroachment agreement and/or road occupancy permit with the City and will be reviewed with respect to the proposed design to ensure the safety of the travelling public and the patrons occupying the patio.

Site Plan Approval

In order to expedite patio openings, site plan approval will not be required for the installation of temporary outdoor patios. Patios proposed on municipal roadways will require an encroachment agreement with the City and will be reviewed with respect to the proposed design to ensure the safety of the travelling public and the patrons occupying the patio.

Patio Design

Staff will also produce an Urban Design Reference Note for Temporary Outdoor Patios that will provide examples of how to design temporary patios while respecting the proposed zoning regulations and allowing for adequate pedestrian movement around the patios. In the interim, patios on public property (i.e. parking lots) and private lands will still be regulated by the Nuisance Lighting By-law (262-12), Nuisance Type Noise By-law 785-80 and the Property Standards By-law 654-98.

Other Legislative Considerations

Until such time as the Temporary Use By-law is in force and effect, Council is requested to approve a recommendation directing staff to suspend the enforcement of the zoning by-law, including waiving the requirement for a Certificate of Occupancy and other regulations governing patios. This will assist the business community to move forward with patios in the warm weather as permitted by Provincial Regulations, taking into consideration the extraordinary circumstances of the pandemic.

To allow patios to locate on a travelled portion (lane/lanes) of a street, on lay-by parking or other part of a road allowance, temporary amendments to the *Encroachment By-law* and the *Prohibit Sale of Goods on Highways By-law* must also be prepared. As both of these by-laws are legislated under the *Municipal Act*, public notice is not required and there is no appeal period for the amendments.

Other by-laws that will need to be amended as part of this process are the *Business Licensing By-law* and the *Fees and Charges By-law*. All of the proposed amendments to the above noted by-laws would also expire on December 31, 2020.

Other municipal regulations will still apply when utilizing public streets, such as the need for a road occupancy permit. This permit is used to ensure construction safety, approving appropriate locations with respect to planned road works and other safety considerations. All permit applications and agreements will go through the regular review and approval process by the Transportation and Works Department.

The Planning Process

The City has to meet its statutory public meeting notification requirements under the *Planning Act* to implement this proposed zoning change. Notice will be given of the intent to approve the temporary use by-law on June 18th, advising that the statutory Public Meeting will be held at Planning and Development Committee (PDC) on July 8th, 2020. On the same day, Council will be asked to approve the PDC recommendation and approve the implementing temporary use by-law which will come into force and effect following the 20 day appeal period.

Communication Strategy

Once these measures are endorsed by Council, staff will contact local Business Improvement Associations, the Mississauga Board of Trade and the Mississauga Tourism Board in order to determine the best means of communicating information to restaurant owners.

Financial Impact

The financial impact of the Temporary Use By-law and permission to locate patios on a public highway will depend on which fees Council chooses to waive, and how many municipal parking spaces (lay-by and in publically owned parking lots) are approved for patio use. Examples of fees that could be waived include Encroachment Agreement applications (\$1,021) Zoning Certificates of Occupancy (\$500), \$650-\$900 to move or permanently relocate a parking meter plus \$201 per month, \$540 for Public Utilities Coordinating Committee fees and up to \$365 for Road Occupancy Permits. These are not typical revenues we would normally be collecting and are only being recommended to be waived due to the extraordinary circumstances that have occurred due to the global pandemic, which has placed undue burden on restaurants and the necessity of adapting to allow for the safety of their patrons by expanding seating areas through the use of patios to satisfy public health requirements.

Conclusion

A Temporary Use By-law is proposed to permit patios on public and private properties. At the same time, amendments to the Encroachment By-law and Prohibit Sale of Goods on Highways By-law will allow installation of patios on public property. These temporary actions represent good planning, and also ensure that restaurant capacity can be expanded in a safe and responsible manner in response to the physical distancing requirements of the Provincial Emergency Order.



Andrew Whittemore, M.U.R.P., Commissioner of Planning & Building

Prepared by: Lisa Christie, Special Projects Planner

City of Mississauga Corporate Report



Date: November 16, 2020

To: Chair and Members of Planning and Development Committee

From: Andrew Whittemore, M.U.R.P., Commissioner of Planning & Building

Originator's file:
CD.21-SPE

Meeting date:
December 9, 2020

Subject

PUBLIC MEETING INFORMATION/RECOMMENDATION REPORT (ALL WARDS)
COVID-19 Recovery – Support for Outdoor Business Activities
File: CD.21-SPE

Recommendation

1. Subject to applicable prohibitions and restrictions established by the Provincial regulations under the Keeping Ontario Safe and Open Framework, that Council temporarily permit outdoor retail sales and display and outdoor recreational and entertainment establishments, for a period of time expiring on December 31, 2021, through a temporary use by-law in accordance with the regulations contained in the staff report dated November 16, 2020 from the Commissioner of Planning and Building.
2. That a by-law be enacted to exempt the application of City of Mississauga by-laws that prohibit or require fees to be paid for temporary outdoor retail sales and display and temporary outdoor recreational and entertainment establishments until December 31, 2021.
3. That a recommendation report regarding the amendment of the City's Building By-law 203-2019, to waive building permit application fees associated with temporary outdoor retail sales and display and temporary outdoor recreational and entertainment establishments until December 31, 2021, from the Commissioner of Planning and Building be scheduled for a Planning and Development Committee meeting to conduct a public meeting to meet the statutory requirements under the provisions of the *Building Code Act*.
4. That City staff are hereby authorized to negotiate the encroachment permit between The Corporation of the City of Mississauga, as property owner, and the applicant, to use City-owned lands as required in connection with temporary outdoor retail sales and display or temporary outdoor recreational and entertainment establishments, in form and content satisfactory to Legal Services.

Report Highlights

- Temporary outdoor retail sales and display and outdoor recreational and entertainment establishment uses are proposed in a range of Commercial, Employment, Downtown Core, Open Space and Parkway Belt zones, with restrictions on parking and setbacks to Residential zones.
- The proposed temporary outdoor uses will support some of the City's small businesses during the pandemic, allowing them to operate outdoors, provided that they are permitted by Provincial regulations under the Keeping Ontario Safe and Open Framework.
- Communications with the public and the business community will emphasize that Provincial regulations take precedence over municipal zoning permissions.

Background

A meeting was held by General Committee on November 18, 2020, at which time a Direction Report was received (see Appendix 1) and gave direction to staff to hold a statutory public meeting with respect to a temporary use by-law. Recommendations GC-0308-2020 were adopted by Council on November 25, 2020.

1. That Council authorize City staff to prepare a temporary use by-law effective to December 31, 2021, to permit outdoor retail sales and display and outdoor recreational and entertainment establishments in accordance with the regulations in the staff report dated November 2, 2020, from the Commissioner of Planning and Building, as amended.
2. That notwithstanding planning protocol, that an information/recommendation report from the Commissioner of Planning and Building be scheduled for a Council meeting to be held on December 9, 2020, to conduct a public meeting to meet the statutory requirements under the provisions of the *Planning Act*.

Comments

On November 23, 2020, the Province of Ontario placed the Region of Peel in the Grey-Lockdown level of the Keeping Ontario Safe and Open Framework. Measures under the Lockdown include, but are not limited to:

- Retail stores are permitted to be open for curbside pick-up or delivery only, with certain exceptions such as supermarkets, grocery stores, pharmacies, hardware stores, discount and big box retailers selling groceries, beer, wine and liquor stores, safety supply stores, and convenience stores, which will be allowed to operate at 50% capacity per room that is open to the public;
- Restaurant, bars, and food and drink establishments will only be able to provide takeout, drive-through and delivery;
- Personal care services closed;
- Casinos, bingo halls and other gaming establishments closed;

- Indoor sports and recreational facilities, including pools, closed with limited exceptions;
- Drive-in cinemas and performing arts permitted; and
- Outdoor markets permitted.

Since drive-in cinemas, drive-in performing arts, and outdoor markets are permitted under the Provincial Lockdown level, some of the proposed outdoor uses that are being considered under the temporary use by-law would be permitted under the current public health and municipal zoning regulations. Some other uses that would be permitted by the temporary use by-law may be required to be closed under the Lockdown level, such as an outdoor bingo hall. It will be properly communicated to the public and businesses that Provincial regulations and public health directives take precedence over any municipal zoning permissions.

COMMUNITY ENGAGEMENT

Notice of the public meeting was placed in the Mississauga News on November 19, 2020, in compliance with the regulations of the *Planning Act*. Given the rising number of COVID-19 cases in Peel, staff have avoided heavily publicizing this initiative at the current time, over the concern of the potential risk of large outdoor gatherings occurring. Through proper implementation and adherence to public health guidelines, it may help small businesses supplement their revenue making this a valuable initiative to support small business in a period where their operations are constricted. More importantly, having the temporary use by-law in place will allow these outdoor uses to operate without delay when Peel is moved out of the Lockdown level, particularly in the spring and summer of 2021.

TEMPORARY USE BY-LAW

Temporary use by-laws are regulated under the *Planning Act*. In Section 19.9 of Mississauga Official Plan, a temporary use which conforms to Mississauga Official Plan is permitted to deal with unfamiliar issues on a trial basis. Permitting recreational and entertainment establishment uses to operate outdoors is an unfamiliar issue. Prior to the pandemic, these uses were restricted to indoor operations and there was no need to move these operations outdoors. Additionally, permitting outdoor retail sales and display in a broad range of zones is an unfamiliar issue because outdoor markets are currently only permitted in specific Downtown Core zones.

The temporary permission to allow these uses conforms to Mississauga Official Plan. The proposed amendments would permit outdoor recreational and entertainment establishments in zones that already permit them indoors. Outdoor retail sales and display is proposed in zones where retail stores are already permitted. The exception to the above statements are the Open Space zones that allow passive and active recreational uses, which also aligns with the outdoor nature of the proposed uses. With rare exception, lands with OS1, OS2 and PB1-6 zoning are owned by the City and are used for parks and community facilities.

The proposed amendments are consistent with the Provincial Policy Statement, and conform to the Growth Plan for the Greater Golden Horseshoe and the Region of Peel Official Plan. The Greenbelt Plan policies do not apply. The Parkway Belt West Plan policies only apply as they pertain to Iceland Arena, which is designated 'Public Open Space and Buffer Area'. The

relevant policies permit open space uses and other public uses of land that preserve natural features and secure an open space character of the area. Since temporary outdoor uses will generally maintain the intent of these policies, the proposed amendments conform to the Parkway Belt West Plan.

Proposed Regulations

The regulations recommended for outdoor retail sales and display and outdoor recreational and entertainment establishments in the proposed temporary use by-law are as follows:

- Permission for outdoor recreational and entertainment establishments in 'C2' (Neighbourhood Commercial), 'C3' (General Commercial), 'C4' (Mainstreet Commercial), 'E1' (Employment in Nodes), 'E2' (Employment), 'OS1' (Open Space – Community Park), 'OS2' (Open Space – City Park), 'PB1-6' (Parkway Belt), 'H-CC1' and 'CC1' (Downtown Core – Core Commercial), 'H-CC2' and 'CC2' (Downtown Core – Mixed Use), 'H-CC3' and 'CC3' (Downtown Core – Mixed Use Transition Area), 'H-CC4' and 'CC4' (Downtown Core – Mixed Use), 'H-CCO' and 'CCO' (Downtown Core - Office) and 'H-CCOS' and 'CCOS' (Downtown Core – Open Space) zones
- Permission for outdoor retail sales and display in 'C1', 'C2', 'C3', 'C4', 'OS1', 'OS2', 'PB1-6', 'H-CC1', 'CC1', 'H-CC2', 'CC2', 'H-CC3', 'CC3', 'H-CC4', 'CC4', 'H-CCO', 'CCO', 'H-CCOS' and 'CCOS' zones
- Outdoor retail sales and display shall be accessory to a retail store, with the exception of 'OS1', 'OS2', 'H-CCOS', 'CCOS' and 'PB1-6' zones
- A minimum of 50% of required parking spaces must be available for use (including temporary outdoor patios)
- Minimum 100% of required accessible parking spaces must be available for use
- Minimum of 1.0 m (3.3 ft.) distance from accessible parking spaces
- Minimum of 4.5 m (15 ft.) setback from Residential zones
- Pedestrian walkways shall not be obstructed
- The existing time limitations on temporary tents and/or stage shall not apply for outdoor retail sales and display and outdoor recreational and entertainment establishments
- Waive the requirement for a Certificate of Occupancy
- The temporary use by-law shall expire on December 31, 2021

Temporary Tents and Other Similar Structures

Temporary tents are already permitted in the zoning by-law for a broad range of zones, including Commercial, Downtown Core, Employment and Open Space zones. Currently, they are limited to 14 consecutive days, and 28 days within one calendar year. Staff recommend that during the duration of the temporary use by-law, those provisions not apply for temporary outdoor uses. In addition, temporary tents that are located more than 3.0 m (9.8 ft.) from a building and cumulatively occupy less than 65.0 m² (700 ft²) do not require a building permit. Staff have prepared design reference notes that will guide businesses regarding design and setbacks.

Other outdoor structures such as a temporary stage or temporary structure to hold a movie theatre screen may require a building permit. Council may consider waiving those fees.

Public vs. Private Lands

The utilization of city-owned property for any of the proposed temporary outdoor uses will require the approval of the City. The sidewalk portion of a municipal right-of-way will only be permitted to have outdoor retail sales and display, shall be accessory to an adjacent retail store, and will require the property owner to obtain an encroachment permit from the City, similar to the permit process that was used for temporary outdoor patios. A permit will only be granted if the municipal sidewalk has an adequate width so as not to impede pedestrian movement. In addition, no portion of the road, including lay-by parking, will be permitted for outdoor retail sales and display. Further, through the encroachment permit, property owners will be required to agree to the removal of their temporary outdoor retail sales and display during snow removal and salting operations. For arenas, community centres and libraries, a park permit or license agreement will be required, and retail sales and display will be permitted without being accessory to a retail store.

On private property, no agreement will be required with the City, which is similar to the approach used for temporary outdoor patios. Outdoor retail sales and display must be accessory to a retail store on the same lot and should be placed so as not to restrict pedestrian movements while enabling physical distancing requirements. These details will be included in the design reference notes.

Duration

As required by the *Planning Act*, the temporary use by-law will not come into effect until the expiry of the mandatory 20 day appeal period, and if there are any appeals, the resolution of such appeals before the Local Planning Appeal Tribunal (LPAT). As a majority of the requests for temporary outdoor uses are anticipated for the spring, summer and fall of 2021, it is recommended that the temporary use by-law expire on December 31, 2021.

Who Will Benefit

This initiative will benefit smaller retail stores that cannot rely solely upon online sales during the pandemic to generate revenue. Shopping malls, community centres and libraries with parking lot capacity can offer outdoor events such as drive-in movie theatres. Providing these opportunities will support our local businesses while encouraging people to participate in activities outdoors. Should the pandemic continue into the spring and summer of 2021, it is anticipated that interest in these outdoor uses will increase during the warmer months of the year.

STAND-ALONE BY-LAW TO EXEMPT APPLICATION OF CERTAIN BY-LAWS

It is recommended that Council approve a stand-alone by-law which would exempt temporary outdoor retail sales and display and temporary outdoor recreational and entertainment establishments from the application of certain City of Mississauga by-laws until December 31, 2021. This by-law would ensure that these activities are not prohibited or subject to fees that would ordinarily apply under other City by-laws. Such by-laws include the Prohibit Sale of Goods on Highways By-law (0127-1995), the Encroachment By-law (0057-2004), the Business Licensing By-law (0001-2006), the Noise Control By-law (0360-1979) and the User Fees and Charges By-law (0156-2019). A separate amending by-law will be brought to Council

to amend the Building By-law (0202-2019) as there is a statutory notice requirement under the *Building Code Act*.

Financial Impact

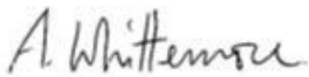
The financial impact of the temporary use by-law and permissions for outdoor retail sales and display and outdoor recreational and entertainment establishments will depend on whether Council chooses to waive fees associated with building permits, certificates of occupancy and/or associated fees for encroachment permits. There could also be some additional enforcement costs, should any unforeseen issues arise. Sweeping and debris removal of the occupied areas within the right-of-way by Works Operations after removal of the outdoor business activities may incur additional costs. Lastly, for temporary outdoor uses at public facilities such as arenas, community centres and libraries, additional staffing may be required to provide access to washroom facilities.

Conclusion

In summary, the proposed regulations for the temporary use by-law are consistent with good planning. The regulations enable some businesses and/or charitable ventures to operate outdoors in a safe and responsible manner while avoiding the cost and delays associated with minor variance approvals. Messaging regarding Provincial regulations and other public health directives will be communicated to the public and the business community. These actions will contribute to the City of Mississauga's overall plan for recovery from the COVID-19 pandemic, and should be approved.

Attachments

Appendix 1: Direction Report



Andrew Whitemore, M.U.R.P., Commissioner of Planning & Building

Prepared by: Jordan Lee, Planner

City of Mississauga

Corporate Report



<p>Date: November 2, 2020</p> <p>To: Chair and Members of General Committee</p>	<p>Originator's file: CD.21-SPE</p>
<p>From: Andrew Whittemore, M.U.R.P., Commissioner of Planning & Building</p>	<p>Meeting date: November 18, 2020</p>

Subject

COVID-19 Recovery – Support for Outdoor Business Activities

Recommendation

1. That Council authorize City staff to prepare a temporary use by-law effective to December 31, 2021, to permit outdoor markets and outdoor recreational and entertainment establishments in accordance with the regulations in the staff report dated November 2, 2020, from the Commissioner of Planning and Building.
2. That Council direct staff, upon the issuance of notice for the statutory public meeting to consider the temporary use by-law, to suspend the enforcement of those zoning by-law provisions which currently do not permit outdoor markets and outdoor recreational and entertainment establishments on private and public lands and that the suspension continue until the temporary use by-law comes into force or until the duration stipulated for the temporary use by-law expires, as may be the case.
3. Notwithstanding planning protocol, that an information/recommendation report from the Commissioner of Planning and Building be scheduled for a Council meeting to be held on December 9, 2020, to conduct a public meeting to meet the statutory requirements under the provisions of the *Planning Act*.

Report Highlights

- Due to the COVID-19 pandemic, the City has received multiple requests for outdoor uses which are not permitted in the zoning by-law, resulting in by-law violations, opening delays and additional costs to businesses for minor variance applications.
- To support Mississauga's businesses and/or charitable ventures, the City can temporarily permit outdoor markets and outdoor recreational and entertainment establishments in appropriate zones.
- Municipal by-laws such as the City's Noise Control By-law and Property Standards By-law will still be in effect for businesses operating outdoors, in the event that there are nuisance or noise complaints.

Background

In an effort to protect public health and safety during the COVID-19 pandemic, the Province announced a shutdown of all non-essential services across Ontario on March 17, 2020. The Provincial Government moved the Region of Peel into Stage 3 of the "Reopening Ontario" framework on July 31, 2020 but then moved Peel back into a modified Stage 2 on October 10, 2020. As a result, the capacity limits for some businesses have been substantially reduced and some other businesses have been required to close. To address these issues, some businesses have expressed a desire to operate outdoors, which would allow greater ability to physically distance. Examples include outdoor drive-in movie theatres and live entertainment, outdoor bingo halls and outdoor sport viewing events. Some of the events may also be for charitable purposes.

Comments

The City's Zoning By-law (0225-2007) states that all uses shall be located wholly within a building, structure or part thereof in all commercial zones unless specifically permitted by exception zone provision. In addition, the definitions of certain uses specifically state that they are to be located within a building. For example, the definitions of recreational establishment and entertainment establishment are as follows:

Recreational Establishment – means a building, structure or part thereof, designed and equipped to be used for athletic and leisure activities and may include such facilities as a fitness centre, racquet club, billiard hall, bowling alley, arena, curling rink, indoor facility used for golf, baseball or soccer, indoor playground.

Entertainment Establishment – means a building, structure or part thereof, designed and equipped to be used for the provision of entertainment or amusement without the necessity of active participation by the user and may include a movie theatre, playhouse, dinner theatre, stadium or auditorium.

Outdoor markets are permitted to be outdoors, but they are only permitted in some of the Downtown Core zones.

As a result, most of these types of outdoor uses require approval of a minor variance application at the Committee of Adjustment. This adds significant delays to the start of operations due to statutory requirements such as notification and appeal periods under the *Planning Act* and impacts the ability of the industry to respond to changing conditions in a timely manner.

Temporary Zoning Regulations

To expedite the approval of certain outdoor business activities, staff are considering the following zoning regulations be permitted on a time limited basis through a temporary use by-law:

1. Recreational and entertainment establishments shall be permitted outdoors in 'C2' (Neighbourhood Commercial), 'C3' (General Commercial), 'C4' (Mainstreet Commercial),

'E1' (Employment in Nodes), 'E2' (Employment), 'OS1' (Open Space – Community Park), 'OS2' (Open Space – City Park), 'PB1-6' (Parkway Belt), 'CC2' (Downtown Core – Mixed Use), 'CC3' (Downtown Core – Mixed Use Transition Area), 'CC4' (Downtown Core – Mixed Use), 'CCO' (Downtown Core - Office) and 'CCOS' (Downtown Core – Open Space) zones;

2. Outdoor markets shall be permitted in 'C2', 'C3', 'C4', 'OS1', 'OS2' and 'PB1-6' zones;
3. A maximum of 50% of required parking spaces may be occupied by outdoor markets and outdoor recreational and entertainment establishments; and
4. Outdoor markets and outdoor recreational and entertainment establishments shall not occupy and be located a minimum of 1.0 m (3.3 ft.) from an accessible parking space.

Permitted Uses and Zones

Based on the types of requests that the City has received for outdoor uses, it appears that most of them would be generally defined as either a recreational establishment or entertainment establishment under the City's Zoning By-law.

Recreational and entertainment establishments are currently permitted in the 'C2', 'C3', 'C4', 'E1', 'E2' and 'E3' (Industrial) zones. They are also permitted as accessory uses in the Downtown Core zones, 'CC2', 'CC3', 'CC4' and 'CCO'. It is proposed that outdoor recreational and entertainment establishments be permitted for the above noted zones, with the exception of 'E3' zones, due to the industrial nature of that zone.

Outdoor markets are currently permitted in the 'CC1', 'CC2', 'CCO' and 'CCOS'. It is proposed that they also be permitted in the commercial zones, 'C2', 'C3' and 'C4' that already permit retail stores.

Other properties that are under consideration for the all of the proposed uses are City-owned lands with a public library, arena or community centre. The majority of these properties are zoned 'OS1', 'OS2' or 'CCOS'. The zoning would be permissive, but the City still has the right to evaluate appropriate requests and require a park permit or license agreement, depending on the duration and the nature of the proposed use.

Parking

The number of required parking spaces is normally regulated by the amount of gross floor area attributed to each use in a building. Permitting outdoor markets and outdoor recreational and entertainment establishments will not accurately reflect the parking demands on a property. In most instances, those outdoor uses will be located in the parking lot, occupying many of the required parking spaces. In particular, this may be problematic for multi-tenant buildings or plazas. However, due to the pandemic, parking demands are generally lower, mitigating some of those impacts.

To accommodate the outdoor uses, while maintaining an appropriate amount of parking for other businesses, it is recommended that a maximum of 50% of the required parking spaces

may be occupied by outdoor markets and outdoor recreational and entertainment establishment uses. In addition, the uses should not be permitted to occupy or be located within 1.0 m (3.3 ft.) of an accessible parking space.

Similar parking regulations have been applied to temporary patios. While there have been some complaints from patrons and other business owners, they have generally been addressed by the property owners or management companies.

Duration

The proposed amendments to the zoning by-law are being contemplated to address the unique situation of Mississauga's businesses during the pandemic. As a result, it is recommended that they remain temporary through the use of a temporary use by-law. As a majority of the requests will be for operation during the spring, summer and fall months, it is recommended that an expiry date of December 31, 2021 be considered.

Staff are also considering a permanent strategy to permitting "outdoor special events" to reduce the need for applications to the Committee of Adjustment, and associated delays. However, those amendments will require further analysis, given the broad nature of potential requests and impacts. Permitting outdoor markets and outdoor recreational and entertainment establishments is an interim strategy until a fulsome study can be conducted.

Other Legislative Considerations

Other municipal by-laws such as the Noise Control By-law and Property Standards By-law will still be in effect for businesses operating outdoors. Therefore, if there are any impacts or nuisance complaints, the City will still have the ability to address the situation. Council may consider providing noise exemptions (with or without fees waived).

Until such time as the temporary use by-law is in force and effect, Council is requested to approve a recommendation directing staff to suspend the enforcement of the zoning by-law, governing outdoor markets and outdoor recreational and entertainment establishments. This will assist the business community to move forward with these uses as permitted by Provincial Regulations, taking into consideration the extraordinary circumstances of the pandemic. This is a similar approach that was taken for outdoor patios.

Other Municipalities

Staff contacted other municipalities in the Greater Toronto and Hamilton Area (GTHA) to find out how other municipalities have dealt with similar issues. Most of the municipalities that responded have followed a similar model as Mississauga regarding outdoor patios. There are two noteworthy municipalities which have special event policies or regulations that pre-date the pandemic.

The City of Burlington amended their zoning by-law in 2013 to allow temporary, one-time special charity events in all zones. The events are limited to private properties, a 24 hour duration and no more than two events can take place on a property during a 12 month period.

The Town of Whitby has a special events policy that was approved in April 2019. Every event is subject to an application and approval process. Zoning regulations and standards are not applied to temporary events but if they are longer-term, they would apply.

No municipalities have responded to the pandemic through amendments to their zoning by-law to permit outdoor uses such as the ones currently contemplated. Some respondents indicated that they will be following what occurs in Mississauga and may explore similar approaches in their municipality.

The Planning Process

The City has to meet its statutory public meeting notification requirements under the *Planning Act* to implement this proposed zoning change. Notice will be given of the intent to approve the temporary use by-law on November 19, 2020, advising that the statutory Public Meeting will be held at a Council meeting on December 9, 2020.

Financial Impact

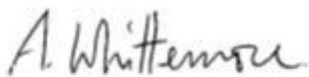
The financial impact of the temporary use by-law and permissions for outdoor markets and outdoor recreational and entertainment establishments will depend on whether Council chooses to waive fees. Aside from that, there could be additional enforcement costs, should any issues arise.

Conclusion

A temporary use by-law is proposed to permit outdoor markets and outdoor recreational and entertainment establishments on certain public and private properties. These temporary actions represent good planning, and also ensure that certain businesses and charitable ventures can operate outdoors in a safe and responsible manner in response to the physical distancing requirements of the Provincial Emergency Order. These actions will contribute to the City of Mississauga's overall plan for recovery from the COVID-19 pandemic, and should be approved.

Attachments

N/A



Andrew Whitemore, M.U.R.P., Commissioner of Planning & Building

Prepared by: Jordan Lee, Planner

By-law	Previous Amendments / Exemptions	Proposed Amendments / Extensions
Prohibit Sale of Goods on Highways By-law (0127-1995)	<ul style="list-style-type: none"> - Add temporary outdoor patios - Exempt public highways adjacent to Office (O1-O3), Commercial (C1-C4), Employment (E2) and all relevant exception zones and Employment in Nodes – Exceptions (E1-Exceptions) zones where all types of restaurants are permitted by the zoning, to December 31, 2021 - Exempt temporary outdoor retail sales and display, temporary outdoor recreational establishment and temporary outdoor entertainment establishment from restriction of selling, offering to sell, displaying of goods, merchandise, products, refreshments, foodstuffs or flowers on a public highway over which the City has jurisdiction, to December 31, 2021 	<ul style="list-style-type: none"> - Extend changes to December 31, 2022
Encroachment By-law (0057-2004)	<ul style="list-style-type: none"> - Add temporary outdoor patios and temporary patio permit - Waive all permit application fees, fees for encroachment agreements (including encroachment application fees, registration fees and annual encroachment fees), temporary patio permits and registration fees for temporary patios - Waive all permit applications fees and fees applicable to agreements for temporary outdoor retail sales and display, temporary outdoor recreational establishment and temporary outdoor entertainment establishments 	<ul style="list-style-type: none"> - Extend changes to December 31, 2022
Business Licensing By-law (0001-2006)	<ul style="list-style-type: none"> - Add temporary outdoor patios - Waive the requirements for a fee payment and a Zoning Certificate 	<ul style="list-style-type: none"> - Extend waiving of fees and requirements to December 31, 2022
Noise Control By-law (0360-1979)	<ul style="list-style-type: none"> - Add temporary outdoor patios - Waive application of publication requirement in subparagraph 7(2)(f) in certain circumstances where applying for an exemption from s. 4 of the By-law - Waive fees for an application for an exemption from the provisions of ss. 3 and 4 of the By-law 	<ul style="list-style-type: none"> - Extend changes to December 31, 2022
Building By-law (0203-2019)	<ul style="list-style-type: none"> - Waive permit fees for a temporary tent, to expire on December 31, 2021 	<ul style="list-style-type: none"> - Extend waiving of fees to December 31, 2022

By-law	Previous Amendments / Exemptions	Proposed Amendments / Extensions
Zoning By-law (0225-2007)	<ul style="list-style-type: none"> - Temporary Outdoor Patio: - Certificate of Occupancy not required - New definition of temporary outdoor patio - Permitted in the following zones: O, C1 to C4, H-CC1 to H-CC4, H-CCO, E1 to E3 - Not permitted on landscaped areas or landscaped buffers - Minimum setback of 6.0 m (19.7 ft.) from Residential Zones - Minimum of 50% of required parking spaces that shall remain available for use - Minimum of 100% of required accessible parking spaces that shall remain available for use - Minimum of 1.0 m (3.3 ft.) distance from accessible parking space to edge of temporary outdoor patio - Shall not obstruct driveways, parking aisles and pedestrian walkways - Provisions in the temporary use by-law shall only be in effect until December 31, 2021 - Temporary Outdoor Retail Sales and Display: - Certificate of Occupancy not required - Permitted in the following zones: C1 to C4, H-CC1 to H-CC4, CC1 to CC4, H-CCO, CCO, H-CCOS, CCOS, OS1, OS2, PB1-6 - Shall be accessory to a retail store, with the exception of OS1, OS2 and PB1-6 - Limit on number of days for temporary tent and/or stage not applicable - Minimum of 4.5 m (14.8 ft.) distance from Residential Zone to edge of temporary outdoor retail sales and display - Minimum of 50% required parking spaces that shall remain available for use 	<ul style="list-style-type: none"> - Extend expiry of provisions to December 31, 2022 - Include zones in the geographic area subject to minor variance 'A' 128/17 that were not included in the temporary use by-laws, but only for temporary outdoor patio and temporary outdoor retail sales and display

By-law	Previous Amendments / Exemptions	Proposed Amendments / Extensions
	<ul style="list-style-type: none"> - Minimum of 100% of required accessible parking that shall remain available for use - Minimum of 1.0 m (3.3 ft.) distance from accessible parking space to edge of temporary outdoor retail sales and display - Shall not obstruct pedestrian walkways - Provisions in the temporary use by-law shall only be in effect until December 31, 2021 - Temporary Outdoor Recreational Establishment and Temporary Outdoor Entertainment Establishment: - Certificate of Occupancy not required - Permitted in the following zones: C2 to C4, H-CC1 to H-CC4, CC1 to CC4, H-CCO, CCO, H-CCOS, CCOS, E1, E2, OS1, OS2, PB1-6 - Limit on number of days for temporary tent and/or stage not applicable - Minimum of 4.5 m (14.8 ft.) distance from Residential Zone to edge of temporary outdoor recreational establishment and a temporary outdoor entertainment establishment - Minimum of 50% required parking spaces that shall remain available for use - Minimum of 100% of required accessible parking that shall remain available for use - Minimum of 1.0 m (3.3 ft.) distance from accessible parking space to edge of temporary outdoor entertainment establishment and temporary outdoor recreational establishment - Shall not obstruct pedestrian walkways - Provisions in the temporary use by-law shall only be in effect until December 31, 2021 	
User Fees and Charges By-laws	<ul style="list-style-type: none"> - Waive relevant fees for temporary patios and temporary outdoor entertainment/recreational establishments in the 	<ul style="list-style-type: none"> - Include the same waivers / exemption of

By-law	Previous Amendments / Exemptions	Proposed Amendments / Extensions
	2020 User Fees and Charges By-law 0156-2019 (repealed December 31, 2020) and 2021 User Fees and Charges By-law 0251-2020, which is expected to be repealed December 31, 2021	fees in the 2022 User Fees and Charges By-law to be approved by Council and will come into effect January 1, 2022