

July 8, 2020

Memo To: Mayor Barrow and Members of Council

Copy To: Mary-Anne Dempster, City Manager

From: Kelvin Kwan, Commissioner of Planning and Regulatory Services

**Subject: Proposed Temporary Use By-law 91-20
Regulation of Outdoor Patios**

At its meeting of June 24, 2020, Council received a presentation with respect to the direction from the Province of Ontario to amend the *Emergency Management and Civil Protection Act* in order permit dining in outdoor areas such as patios, curbside areas, parking lots and adjacent premises. At that time, Council was advised that City staff had prepared interim guidelines to deal with anticipated requests to establish outdoor patios and outdoor display and sales uses and of staff's intent to prepare a City initiated Temporary Use By-law for Council's consideration to address these matters.

In accordance with the requirements of the *Planning Act*, the proposed Temporary Use By-law would need to be considered at a statutory Council Public Meeting and enacted at a subsequent Special Council Meeting, both of which were scheduled for July 15, 2020. However, on July 2, 2020, the Province of Ontario issued Regulations 511/2020 and 518/2020 which further amended the *Emergency Management and Civil Protection Act* providing municipalities with additional measures to enact Temporary Use By-laws required to facilitate approvals for outdoor patios. Amongst other matters, the Regulations:

- established a definition of "restaurant and bar patio";
- established requirements for outdoor covering and permeability for restaurant and bar patios; and,
- provided an exemption from the statutory public hearing and appeal provisions of the *Planning Act* where a Temporary Use Zoning By-law is to be enacted to facilitate a restaurant or bar patio use.

In consideration of the preceding, the Council Public Meeting and Special Council Meeting scheduled for July 15, 2020 will no longer be required as Council has been given the authority to enact a Temporary Use By-law in accordance with the July 2, 2020 direction from the Province. In this regard, staff has prepared draft By-law 91-20 for consideration and enactment at the July 8, 2020 Council meeting (refer to Appendix A).

It should be noted that following the establishment of the interim guidelines noted previously, City staff continues to process numerous requests related to the establishment of outdoor patios but that there has been no expression of interest with respect to outdoor display and sales areas in association with existing commercial retail uses. As such, the draft Temporary Use By-law will not include any provisions to address outdoor display and sales areas as it is anticipated that any forthcoming requests can be dealt with through the existing interim guidelines. On the basis of the preceding, staff recommends the following:

- a) that the Council Public Meeting and Special Council Meeting scheduled for July 15, 2020 to consider the City initiated Temporary Use Zoning By-law be cancelled and that appropriate notice of the cancellation be provided;
- b) that staff process any requests related to the establishment of temporary outdoor display and sales uses in accordance with the existing interim guidelines for same as previously endorsed by Council; and,
- c) that draft By-law 91-20, being a Temporary Use By-law to regulate the establishment of outdoor patios be considered for enactment at the July 8, 2020 Council Meeting.

A handwritten signature in black ink, appearing to read "Kelvin Kwan".

Kelvin Kwan
Commissioner of Planning and Regulatory Services