



## Staff Report for Council Meeting

Date of Meeting: December 8, 2021

Report Number: SRPI.21.113

Department: Planning and Infrastructure

Division: Development Planning

**Subject: SRPI.21.113 – Request for Approval – Extension of Outdoor Patio Temporary Use Zoning By-law 91-20 – City of Richmond Hill – City File D24-20001**

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### Purpose:

A City initiated request for approval to extend the expiration date set out under Temporary Use By-law 91-20, as extended by By-law 146-20 which permits the establishment and expansion of outdoor patios in the continued support of the resumption of businesses during the COVID-19 Emergency.

### Recommendations:

- a) That the City initiated Zoning By-law Amendment, City File D24-20001, be approved, subject to the following;
  - (i) That the amending Zoning By-law to extend the expiry date established under Temporary Use Zoning By-law 91-20, as extended by Zoning By-law 146-20, be further extended by By-law 144-21, from January 1, 2022 to January 1 2023; and,
  - (ii) That the amending Zoning By-law be brought forward to the December 8, 2021 Council meeting for consideration and enactment.

### Contact Person:

Shareefah René, Planner I - Zoning, phone number 905-771-2470

Ferdi Toniolo, Senior Planner - Zoning, phone number 905-771-2442

Shelly Cham, Manager of Development - Zoning, phone number 905-747-6470

### Report Approval:

**Submitted by:** Kelvin Kwan, Commissioner of Planning and Infrastructure

**Approved by:** Mary-Anne Dempster, City Manager

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All reports are electronically reviewed and/or approved by the Division Director, Treasurer (as required), City Solicitor (as required), Commissioner, and City Manager. Details of the reports approval are attached.

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### Introduction:

On July 2, 2020, the Province of Ontario issued Regulations 511/2020 and 518/2020 which amended the *Emergency Management and Civil Protection Act* to provide additional measures to assist municipalities in enacting Temporary Use By-laws to facilitate approvals of outdoor patios. Amongst other measures, the requirement for a statutory Council Public meeting was suspended and a proposed Temporary Use By-law could be brought forward directly to Council for approval.

On July 8, 2020, Council approved Temporary Use Zoning By-law 91-20 (By-law 91-20) to expand permissions with respect to the establishment and expansion of outdoor patios across the City (refer to Appendices A and B). By-law 91-20 was enacted in response to direction from the Province of Ontario to support the resumption of business during the COVID-19 Emergency. The by-law suspended the provisions of the City's existing Outdoor Patio By-law 83-97 (Patio By-law), as amended, and introduced new standards for outdoor patios. By-law 91-20 expired on January 1, 2021. At its meeting held on December 9, 2020, Council approved By-law 146-20 to amend By-law 91-20 in order to extend the established expiry date from January 1, 2021 to January 1, 2022.

The Province's regulations as noted above continue to be in effect through the *Reopening Ontario (A Flexible Response to COVID-19) Act* (the Act). As of the time of writing of this report, the regulation pertaining to Outdoor Patios continues to be in effect to December 16, 2021 in accordance with Ontario Regulation 738/21, being an Order made under the Act. In response to the extension of the Order, staff is seeking Council's approval to bring forward a Zoning By-law Amendment at this time, without the need to hold a statutory Council Public Meeting, to extend Temporary Use By-law 91-20, as amended, in order to continue to support the resumption of business during the COVID-19 Emergency.

Accordingly, the purpose of this report is to seek approval from Council to enact a by-law to facilitate an extension of By-law 91-20, as amended by By-law 146-20, which is set to expire on January 1, 2022, to January 1, 2023.

### Background:

As of July 16, 2021, the Province moved into the step three of its established three step plan – Roadmap to Reopen. Step three permits indoor and outdoor dining with restrictions related to vaccination status, maximum occupancy, distance between patrons and hours of operation, amongst other measures. On October 25, 2021, the Province lifted capacity limits, including the requirement for physical distancing in spaces such as restaurants. Notwithstanding the aforementioned, in order to continue supporting local restaurants and eating establishments and to maintain maximum flexibility for these commercial operators to respond to changing conditions, staff is seeking Council's approval to continue the permissions under By-law 91-20, as extended by By-law 146-20, for a period of a one year to January 1, 2023.

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### **Current Provisions Under By-law 91-20**

As previously noted, the intent of By-law 91-20, as amended, is to provide flexibility for existing businesses to operate during the COVID-19 Emergency period. In this regard, By-law 91-20, as amended, amongst other matters, establishes provisions to (refer to Appendix C):

- harmonize the definitions of “Outdoor Patio” and “Premises” on a City-wide basis;
- permit an Outdoor Patio on any commercial property;
- permit an Outdoor Patio in any yard subject to maintaining a minimum setback of 15 metres (49.2 feet) from an abutting low density residential lot;
- allow Outdoor Patios to locate within a parking area and utilize a maximum of 30% of existing parking spaces; and,
- restrict the size of an Outdoor Patio to a maximum of one hundred (100%) percent of the gross floor area of the Premises.

During the COVID-19 Emergency period, requests to permit temporary Outdoor Patios have been reviewed for compliance by the City’s Building Services Division. More specifically, for patios that are licenced to serve liquor, staff reviews a Municipal Letter of No Objection for Alcohol and Gaming Commission of Ontario (AGCO) licensing purposes. For patios that are not licensed by the AGCO, proponents are required to comply with the by-law provisions and require no other specific approvals. Since the enactment of By-law 91-20, the City has received 38 formal applications for a Municipal Letter of No Objection for AGCO licensing purposes, of which 27 have been approved.

It should be noted that the City has had no issues with the operation of both licenced and unlicenced Outdoor Patios since the enactment of By-law 91-20. In anticipation of a continued need for businesses to maintain flexibility to respond to the COVID-19 Emergency, in one form or another, it is prudent to continue supporting local commercial operators by extending the provisions of By-law 91-20 into 2022. On the basis of the preceding, it is recommended that By-law 91-20, as extended by By-law 146-20, be further extended to January 1, 2023.

### **City Department, External Agency and Public Comments:**

Planning staff have consulted with the City’s Building Services Division, Community Services Department, Fire and Emergency Services, Parks and Natural Heritage Planning and Infrastructure Planning and Development Engineering Division regarding the proposed extension of the By-law 91-20. None of the departments consulted had any concerns with the extension of the Temporary Use By-law.

### **Financial/Staffing/Other Implications:**

The recommendation of this report does not have any financial, staffing or other implications.

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### **Relationship to Council’s Strategic Priorities 2020-2022:**

The proposed Zoning By-law Amendment aligns with Council’s strategic priority of **Sense of Belonging** by committing to community building and promoting the recovery of businesses within the community.

### **Climate Change Considerations:**

Climate change considerations are not applicable to this staff report.

### **Conclusion:**

By-law 91-20, as extended by By-law 146-20, temporarily suspends the current zoning regime that applies to the establishment of Outdoor Patios throughout the City. Amongst other matters, it expands permissions for Outdoor Patios in response to the direction from the Province of Ontario to support the resumption of business during the COVID-19 Emergency. The purpose of this report is to provide Council and the public with an overview of the current Temporary Use By-law and to recommend its further extension to January 1, 2023.

### **Attachments:**

The following attached documents may include scanned images of appendixes, maps and photographs. All attachments have been reviewed and made accessible. If you require an alternative format please call the contact person listed in this document.

- Appendix A – Temporary Use By-law 91-20
- Appendix B – Extract Council Meeting C#29-20 held July 8, 2020
- Appendix C – Extending By-law 146-20
- Appendix D – Extract Council Meeting C#51-20 held December 9, 2020
- Appendix E – Draft Zoning By-law 144-21

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### Report Approval Details

Document Title:	SRPI.21.113.docx
Attachments:	<ul style="list-style-type: none"><li>- Appendix A Temporary Use By-law 91-20.pdf</li><li>- Appendix B Extract Council Meeting C29-20.pdf</li><li>- Appendix C Extending By-law 146-20.pdf</li><li>- Appendix D Extract Council Meeting C51-20.pdf</li><li>- Appendix E Draft Zoning By-law 144-21.pdf</li></ul>
Final Approval Date:	Nov 19, 2021

This report and all of its attachments were approved and signed as outlined below:

**Gus Galanis - Nov 17, 2021 - 4:04 PM**

**Kelvin Kwan - Nov 18, 2021 - 10:03 AM**

**MaryAnne Dempster - Nov 19, 2021 - 12:20 PM**