

In May 2020, in response to public health orders requiring reduced occupancy and the need for social distancing, Council endorsed a series of bylaw and policy changes that permitted local businesses to expand their operations onto sidewalks and other public rights of way, including on-street parking spaces and other road space. The program has enabled participating businesses to meet physical distancing requirements and adhere to public health guidelines, which reduced their operating capacity and required new ways to address occupancy shortfall, and consumer preferences, while remaining in operation.

In May 2020, the Liquor and Cannabis Regulation Branch (LCRB) introduced Temporary Expanded Service Areas (TESAs) to allow for licensed establishments to extend their service areas to patios, and in reports to Council in September and November 2020, staff recommended further refinements to the interim patio program to continue to support businesses as winter approached, including allowing heating, waived fees and relaxed design guidelines.

In July 2021, the Province once again extended the TESA program and staff brought forward a report to support the City extending the program again with the same measures. At that time, based on feedback and learnings of the program from 2020-2021, staff also indicated they would work to refine the existing sidewalk café bylaw on a more permanent basis.

On March 7, 2022, Council was presented an updated Street and Sidewalk Patio Bylaw, as well as an amendment to the Zoning Bylaw (Zoning Amendment Bylaw No. 8317, 2022) which sought to permit the use of up to two parking spaces or a loading space for patio space on private property. The zoning amendment bylaw process included a waived public hearing, and the bylaw was subsequently adopted on April 11, 2022.

In June 2022, the City realized that it had made an administrative error in the timing of the public notifications due to changes in the Local Government Act. To correct this error the City is repealing and replacing the bylaw and this report is placed before Council to begin the new approval process. This process will correct the administrative error, and no changes have been made to the content of the zoning bylaw.

EXISTING POLICY AND PRACTICE

Street and Sidewalk Patio Bylaw No. 8318, 2022: This recently approved bylaw sets out the regulations of private outdoor seating space on city sidewalks, streets and other public property, in relation to traffic management, safety, proximity, and operating regulations.

Patio Design Guidelines: Recently updated in spring 2022, this information package includes easy to follow instructions and illustrations to assist applicants through the application process. A centralized staff lead accepts applications and guides them through the various city staff divisions for comment.

ANALYSIS

As the pandemic continues into 2022, businesses have indicated their desire to make temporary patios permanent and patrons continue to indicate a preference for outdoor space.

Provincial Temporary Expanded Service Areas (TESAs)

On May 22, 2020, the Province's Liquor and Cannabis Regulation Branch (LCRB) announced a new policy directive (known as Temporary Expanded Service Areas (TESAs)) that permitted food primary, liquor primary and manufacturing licensees to temporarily expand their service area footprint. This helped licensees increase their service area by allowing them to decrease the density of patrons in their establishments and to continue to serve patrons while complying with Provincial Health Officer orders and guidelines regarding physical distancing.

The Province has extended the use of existing TESA patios until March 31, 2023. After this date, businesses will need to have approval (both municipal and Provincial) for continuing to operate their patio.

Street and Sidewalk Patio Program

In spring 2022, staff developed a new framework that updated the City's pre-pandemic patio program, and which includes year-round, seasonal, curbside and small patios (table and chairs with no liquor service). The introduction of a seasonal patio program (April 1 – October 31) expands the pre-pandemic patio approach while incorporating the successes of the temporary patio program, allowing for simplified design requirements to encourage timely installation for summer patios while meeting key safety and accessibility requirements. Given Metro Vancouver's climate, the summer months have a higher demand for patio use as we saw most patios were not used during the winter months. Additionally, some businesses may wish to use a seasonal patio as a test case before committing to a more permanent year-round patio. Should operators desire a patio that is longer in duration than the seasonal term, or more complex design, they may apply for an annual patio permit, which will have a more detailed level of review reflecting the complexity of adding a permanent structure or additional capacity to public property.

Patios on Private Property

During the temporary patio program an amendment to the Zoning Bylaw permitted the temporary conversion of two non-accessible parking stalls or a loading space, for patio use on private property. This temporary amendment expired January 31, 2022.

At the November 30, 2020 meeting Council raised the idea of permanently allowing parking stalls to patio use. Staff from Transportation and Planning support making this provision permanent, which aligns with the City's Climate Action goals and supporting vibrant, active streets and open space.

A May 2022 Council report contained a revised amendment to the Zoning Bylaw to continue permitting patios on private property, however as noted, it was recently found to have had an administrative error. This report recommends re-establishing a bylaw that would continue to permit parking and loading space to be used for temporary patio use.

Attachment 1 includes Zoning Amendment Bylaw No. 8357, 2022, which is recommended for public notice period. It is also recommended the Public Hearing be waived as the Bylaw is consistent with the City’s Official Community Plan. If approved, applicants would be able to use up to two parking spaces, provided they are not for accessible vehicles, or use a loading space, provided it can easily be disassembled to continue to provide loading access as required.

As with standard process, applicants would continue to be required to apply for a minor Development Permit, and Building Permit if necessary, for a patio on private property. For those patios that are a Liquor Primary (e.g. pub) or manufacturer with a lounge endorsement (e.g. brewery that also has on-site liquor service) community comment would be required as part of Provincial liquor approval process. Depending on the particular liquor license additional City fees may be required to cover the community comments costs, as well as any corresponding Provincial liquor license fees.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this proposed zoning amendment bylaw.

CONSULTATION

Members of the Economic Development Advisory Committee, the Culture and Economic Development Task Force, and the COVID-19 Business & Local Economy working group were previously presented with a summary of the temporary patio program and have provided input on the evolution of the patio program, prior to the fee structure being set. All were supportive of the work.

INTERDEPARTMENTAL LIAISON

Multiple departments have been consulted to implement these initiatives including the Office of the CAO; Engineering Services; Climate Action, Planning and Development; and Parks & Recreation, as well as the City’s solicitor.

OPTIONS

Four options are presented for Council’s consideration:

1. THAT Council consider Zoning Amendment Bylaw No. 8357, 2022 and no public hearing be held, in accordance with the Local Government Act;
2. THAT notification be circulated in accordance with the Local Government Act;
3. THAT Zoning Amendment Bylaw No. 8317, 2022 be repealed;
4. THAT Council provide staff with alternate direction.

Staff recommend Option 1, 2 and 3.

ATTACHMENTS

Attachment 1: Zoning Amendment Bylaw (Parking Reductions for Patios) No. 8357, 2022

APPROVALS

This report was prepared by:

Carolyn Armanini, Planner 1
Jen Arbo, Economic Development Coordinator

This report was reviewed by:

Blair Fryer, Manager, Communications & Economic Development

This report was approved by:

Lisa Spitale, Chief Administrative Officer