



THE CORPORATION OF THE CITY OF BRAMPTON

BY-LAW

Number 103-2020

A By-law to facilitate Temporary Outdoor Patio Expansions in an effort to mitigate the effects of COVID-19

WHEREAS the World Health Organization has declared a worldwide pandemic regarding the 2019 Novel Coronavirus Disease.

AND WHEREAS in March 2020 the Province of Ontario and the City of Brampton declared an emergency pursuant to the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9 related to COVID-19;

AND WHEREAS the economic impacts of COVID-19 have been felt by residents and businesses throughout the City and Council has sought to assist in relieving such impacts where possible;

AND WHEREAS on June 5, 2020 the Province amended Reg. 719 under the *Liquor Licence Act*, R.S.O. 1990, c. L. 19 to permit the temporary outdoor physical expansion of liquor licensed premises until January 1, 2021 at 3:00 a.m.;

AND WHEREAS The Council of the Corporation of the City of Brampton wishes to permit the physical outdoor expansion of existing restaurants and bars intended to facilitate physical distancing and assist in relieving the impact on business arising from COVID-19;

AND WHEREAS sections 8, 9, and 11 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues and to provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS section 40 of the *Planning Act*, R.S.O. 1990 c. P. 13 permits a municipality to exempt an owner or occupier of property from the requirement to provide parking to the extent required by agreement with a municipality.

NOW THEREFORE the Council of The Corporation of the City of Brampton
ENACTS AS FOLLOWS:

1. This By-law shall be referred to as the "COVID-19 Temporary Outdoor Patio Expansion By-law".

2. For the purpose of this By-law the following definitions shall apply:

“City” means the Corporation of the City of Brampton;

“Commissioner” means the Commissioner of Planning, Building and Economic Development or the Commissioner of Public Works, or their designates;

“COVID-19” means the 2019 Novel Coronavirus Disease;

“Clerk” means the City Clerk or designate;

“*Liquor Licence Act*” means the *Liquor Licence Act*, R.S.O. 1990 c. L. 19;

“Officer” means a person employed by the City and appointed as a Municipal Law Enforcement Officer by the City;

“*Municipal Act, 2001*” means the *Municipal Act, 2001*, S.O. 2001, c.25, as amended;

“Permit” means a permission or authorization given in writing by the Clerk for a Temporary Outdoor Patio Expansion issued under this By-law;

“Person” includes an individual, corporation, partnership or limited partnership;

“*Planning Act*” means the *Planning Act*, R.S.O. 1990, c. P. 24, as amended;

“Temporary Outdoor Patio Expansion” means an open air outdoor physical expansion of existing restaurants, bars and other food and drink establishments for a period of time not exceeding 3:00 a.m. on January 1, 2021, intended to facilitate physical distancing in response to COVID-19;

3. No Person shall construct, permit or operate a Temporary Outdoor Patio Expansion without a Permit.
4. No Person shall operate a Temporary Outdoor Patio Expansion in contravention of this By-law or any other City by-law, or the terms of a Permit granted or agreement executed pursuant to this By-law.
5. An application for a Permit may be made to the Clerk in relation to the following Temporary Outdoor Patio Expansion:
- (a) expansion within private property, including parking lots;
 - (b) expansion on to municipally owned lands and rights of way.
6. An application for a Permit shall include the following information:
- (a) A completed application in the form approved by the Clerk;
 - (b) A sketch of the dimensions and location of the proposed Temporary Outdoor Patio Expansion, including:
 - (i) siting of the proposed expansion;
 - (ii) details of an structures proposed to be erected in connection with the expansion, including size and materials;
 - (iii) the number and location of any parking spots proposed to be removed to facilitate the expansion, and the resulting total number of parking spots that would be available following the expansion;

- (iv) details and plans for pedestrian routes around and within the expansion.
 - (c) Proof of insurance in a form and amount satisfactory to the City;
 - (d) Any and all documents or information required by the Clerk.
7. In connection with an approved application and Permit for a Temporary Outdoor Patio Expansion, the Clerk is hereby authorized to execute the following agreements as may be required:
- (a) an agreement pursuant to section 40 of the *Planning Act* where the proposed Temporary Outdoor Patio Expansion requires a temporary exemption from the parking requirements as set out in the City's Zoning By-law 270-2004;
 - (b) a temporary licence or encroachment agreement where the proposed Temporary Outdoor Patio Expansion encroaches onto City land or right-of-way;
8. The Clerk may grant a Permit where the application satisfies:
- (a) all provincial and public health requirements and guidelines, including the requirements established under the *Liquor Licence Act* and by the Alcohol and Gaming Commission in relation to the temporary expansion of restaurants and bars operating under the *Liquor Licence Act*;
 - (b) the requirements set out in the "Brampton COVID-19 Temporary Outdoor Patio Expansion Guidelines" established by the Clerk, as may be amended from time to time by the Clerk; and
 - (c) any other requirements which may be identified by the Clerk in relation to a particular application, including the requirement for an agreement as set out in this By-law.
9. Any Permit granted and/or agreement executed pursuant to this By-law shall:
- (a) require compliance with all municipal, provincial and federal laws and regulations and other requirements, including the Brampton COVID-19 Temporary Outdoor Patio Expansion Guidelines and the *Liquor Licence Act*;
 - (b) be for a period of time no later than 3:00 a.m. on January 1, 2021;
 - (c) require payment of no more than nominal consideration, and any such payment received in relation to an agreement under section 40 of the *Planning Act*, 1990, c. P. 24 shall be paid to the City's Cash-in-Lieu of Parking Reserve Account #26; and
 - (d) be approved as to content by the appropriate Commissioner and as to form by the City's legal counsel.
10. By-law 96-86 shall not apply to an application for a Temporary Outdoor Patio Expansion.
11. Any fee or charge under the City's User Fee By-law 380-2003, as amended, that may be applicable to an application for a Temporary Outdoor Patio Expansion is hereby waived.
12. The Clerk may revoke a Permit granted for a Temporary Outdoor Patio Expansion where:

- (a) any condition of the Permit or agreement entered into pursuant to this By-law is not met or maintained;
 - (b) the Province enacts emergency legislation that affects or prohibits the continued operation of a Temporary Outdoor Patio Expansion; or
 - (c) the Clerk is satisfied that the continued operation of the Temporary Outdoor Patio Expansion poses an immediate danger to the health or safety of any person or property.
13. (1) An Officer may enter on any land and building or structure thereon, at any reasonable time for the purpose of carrying out an inspection to determine whether any one or more of the following are being complied with:
- (a) the provisions of this By-law;
 - (b) an order made under this By-law and section 444 of the *Municipal Act, 2001*; and
 - (c) a condition of a Permit issued under this By-law.
- (2) For the purposes of an inspection under subsection 10(1) the person carrying out the inspection may do any one or more of the following:
- (a) require the production for inspection of any goods, articles, books, records and other documents of or relating to any trade, business or occupation licensed under this By-law; and
 - (b) inspect and remove documents or things relevant to the inspection, including anything listed in subsection.
14. (1) Where an Officer believes that a contravention of this By-law has occurred they may issue an order:
- (a) to discontinue the contravening activity;
 - (b) to correct the contravention; or
 - (c) to discontinue the contravening activity and correct the contravention.
- (2) An order issued under this By-law may be served personally or served by mail to the last known address of the Person and such other persons affected by it as determined by the Officer and a copy of the order may be posted on any property to which the contravention or Permit applies.
- (3) If an order is served by registered mail, the service shall be deemed to have been made 5 days after mailing.
- (4) Every Person who fails to comply with an order made under this section is guilty of an offence.
- (5) Where a Person is ordered to correct a contravention of this By-law under and fails to do so, the City or a contractor retained by the City may carry out any work required to correct the contravention, and may, at any reasonable time, enter onto the property to which the contravention or Permit applies in order to carry out any work ordered. All expenses incurred by the City in carrying out any work contemplated by this section shall be considered a debt owed to the City by the Person who was ordered to correct the contravention and shall be paid to the City within 30 days of the billing date, and in the event of failure to pay the entire amount due within 30 days, the outstanding balance of the expenses owed may

be added to the tax roll of the property to which the contravention or Permit applies and collected in the same manner as property taxes.

15. (1) Every Person who contravenes any provision of this By-law, including an order made under this By-law, is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended, and the *Municipal Act, 2001*, as amended.
- (2) In addition to subsection 15(1), any Person who is charged with an offence under this By-law by the laying of an information under Part III of the *Provincial Offences Act* R.S.O. 1990, c. P. 33, as amended, and is found guilty of the offence is liable, pursuant to the fine provisions of the *Municipal Act, 2001*, to the following fines: (a) The minimum fine for an offence is \$500 and the maximum fine for an offence is \$100,000. (b) In the case of a continuing offence, for each day or part of a day that the offence continues the minimum fine shall be \$500 and the maximum fine shall be \$10,000.
16. A Permit issued under this By-law shall cease to be valid on the earlier of the date specified in the Permit issued or agreement entered into pursuant to this By-law, or 3:00 a.m. on January 1, 2021.

ENACTED and PASSED this 24th day of June, 2020.

THE CORPORATION OF THE CITY OF BRAMPTON

Approved as to form.
2020/06/25
DMS

Patrick Brown, Mayor

Approved as to content.
2020/06/25
Peter Fay

Peter Fay, City Clerk