


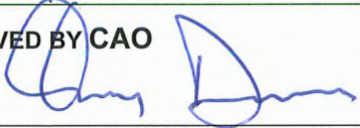


To: General Purposes Committee **Date:** May 22, 2020
From: Cecilia Achiam **File:** 12-8275-00/Vol 01
General Manager, Community Safety
Re: **Expedited Temporary Patios for Restaurants, Cafes and Pubs**

Staff Recommendation

1. That Council endorse a program to facilitate the creation of temporary patios as described in the staff report titled “Expedited Temporary Patios for Restaurants, Cafes and Pubs”, dated May 22, 2020, from the General Manager of Community Safety, which would include:
 - a. the delegation of authority to the General Manager of Engineering and Public Works to approve and execute temporary license agreements permitting the temporary use and occupation of City owned property including portions of sidewalks and highways for the purposes of operating a temporary patio;
 - b. the temporary suspension of enforcement of the minimum on-site vehicle parking requirements specified in City of Richmond Zoning Bylaw No. 8500 to the extent any temporary patio created under the program impacts the ability to meet those requirements until November 1, 2020 or until a Council resolution to cancel; and
 - c. the temporary suspension of enforcement of the requirements to obtain a Heritage Alteration Permit within the Steveston Village Heritage Conservation Area to the extent any temporary patio created under the program would otherwise require a Heritage Alteration Permit, until November 1, 2020 or until a Council resolution to cancel.
2. That one pre-approval is provided to the Liquor and Cannabis Regulation Branch for all individual requests for temporary patios for liquor primary and manufacturer establishments; and
3. That staff provide regular updates on the number of applications and report back to Council at the conclusion of the program.

Cecilia Achiam
General Manager, Community Safety
(604-276-4122)

REPORT CONCURRENCE	
ROUTED TO:	CONCURRENCE
Customer Service	<input checked="" type="checkbox"/>
Economic Development	<input checked="" type="checkbox"/>
Real Estate Services	<input checked="" type="checkbox"/>
Engineering	<input checked="" type="checkbox"/>
Building Approvals	<input checked="" type="checkbox"/>
Development Applications	<input checked="" type="checkbox"/>
Policy Planning	<input checked="" type="checkbox"/>
Transportation	<input checked="" type="checkbox"/>
Law	<input checked="" type="checkbox"/>
SENIOR STAFF REPORT REVIEW	INITIALS: 
APPROVED BY CAO 	

Staff Report

Origin

At General Purposes Committee meeting on May 19, 2020, staff were directed to create and report back on a streamlined application and permit process for outside patios to expand the usable floor space for existing restaurants, cafes and pubs, until the end of 2020, and that the proposed program would be reviewed three months after final adoption

This report supports Council's Strategic Plan 2018-2022 Strategy #7 A Supported Economic Sector:

Facilitate diversified economic growth through innovative and sustainable policies, practices and partnerships.

7.1 Demonstrate leadership through strategic partnerships, collaborations and exploring innovative and emerging economic practices and technical advancements.

Analysis

Background and Rationale

On March 20, 2020 the Provincial Health Officer ordered the closure of dine-in service provided by all food and liquor establishments in order to prevent the spread of COVID-19. Since that time, restaurants, cafes and pubs have been permitted to only provide take-out or delivery service, which has seriously impacted the long term viability of some establishments.

On May 15, 2020, the Province announced a plan for businesses to re-open and operate safely. As part of the plan, restaurants, cafes and pubs are now permitted to offer dine-in service but with several restrictions. These restrictions include:

- Seating is restricted to a maximum of six patrons per table;
- Tables must be a minimum of two metres apart;
- There must be no more than 50 per cent of the usual capacity of patrons present at any time; and
- If practical, businesses must retain contact information for one member of every party of patrons for 30 days in the event there is need for contact tracing.

While the restrictions will allow businesses to re-open, they will be serving fewer customers and may have additional costs as they adapt to new health and cleaning protocols. The BC Restaurant and Food Services Association estimates that one in 10 restaurants have already been forced to close permanently due to the pandemic and that many more are at serious risk of permanent closure. Allowing businesses to temporarily add outdoor seating would give them more physical space to operate in a safe manner while helping to further mitigate permanent business losses in the community.

Proposed Temporary Patio Program

Several local businesses have approached staff with proposals to add temporary patios to outdoor space adjacent to their restaurant, café or pub. In order to accommodate these requests, a new process to facilitate expedited temporary patios would need to be in place in time for the limited 2020 “patio season” where mild weather is conducive to outdoor dining. Considerations for such a program are presented in this report for Council’s endorsement.

Duration of Program

The intention of this program is to quickly approve applications for temporary patios which involve little more than tables and chairs placed outside to meet physical distancing requirements. While some types of heaters may be involved, tents and other structures that require permits and technical review will not be permitted as part of the expedited program. These applications would be subject to the City’s regular building permit process.

In consideration of practical reasons, like weather, and in order to minimize any long term impacts to parking and public space, it is recommended that this program extend to the end of October. It is proposed that applications would be accepted for a period ending September 30, 2020 with all patios removed prior to November 1, 2020. This will provide enough time for businesses to take advantage of the spring, summer and fall “patio season” while also providing enough time for businesses and the City to contemplate potential requirements for on-going programs or applications. This timeline is also consistent with the timelines available for liquor licensees to operate temporary patios.

Licences for Use of Public Property

It is anticipated that some restaurants, cafes and pubs may wish to use the City-owned property, sidewalk or highway adjacent to their business to set up a temporary patio. Where public property is involved, a short term licence agreement would be required in order to ensure this is a temporary arrangement and that the City is adequately protected and indemnified. The terms of the licence agreement will be to the satisfaction of the City Solicitor and may contain specific provisions unique to each location. Under the program contemplated by this report, the General Manager of Engineering and Public Works would be delegated the authority to approve and execute temporary license agreements permitting the temporary use and occupation of City owned property including portions of sidewalks and highways for the purposes of operating a temporary patio.

Liquor Licencing

On May 22, 2020, the the Liquor and Cannabis Regulation Branch (LCRB) announced Policy Directive 20-13 (Attachment 2), that permits food primary, liquor primary and manufacturing licensees to temporarily expand their service area footprint until October 31, 2020. Temporary authorization will be given to expand service areas only and will not increase the approved patron capacities or occupant loads. This will be an expedited process intended to support businesses to decrease the density of patrons in their establishments while complying with PHO orders and guidelines regarding physical distancing. There will be no cost to applicants who apply for temporary authorization.

In the case of liquor primary and manufacturer licenses, local governments are usually required to review and comment on any type of application for a new or expanded service. However, in the case of the Policy Directive for temporary patios, local governments are given the option to:

1. Provide one pre-approval to cover all all liquor primary and manufacturer establishments who may apply for an expanded service area; or
2. Review and approve all individual requests for liquor primary and manufacturer expansions prior to licensees submitting their applications to the LCRB.

It is staff's recommendation that Council provide one pre-approval for all applications for expanded service areas to accommodate temporary patios. This would align with the approval process for food primary licensees who are not required to seek local government approval. In all cases, local governments are advised of approvals from LCRB and applicants are required to comply with local bylaws.

Zoning Bylaw Parking Provisions on Private Property

Some temporary restaurant patios may involve using one or more vehicle parking stalls located on private property. Depending on the site, this may result in a reduction of parking spaces below the minimum requirements specified in Richmond Zoning Bylaw No. 8500 (the Zoning Bylaw). This is not supported on a long term basis but can be accommodated on a short term basis considering conditions in the community due to the ongoing pandemic. While food service and other types of businesses begin re-opening, many people are continuing to stay home and reduce their social interactions as directed by the Public Health Officer. This has reduced demand for food, retail and other services that typically drive parking demand.

The proposed maximum reductions in on-site parking spaces to support conversion to a temporary patio zone are 40 per cent for sites with five or more existing parking stalls and 100 per cent for site with four or fewer existing parking spaces. The application process will also include a provision to ensure that any reduction of parking is supported by the property owner and/or Strata as it is important that any competing needs of tenants are managed by the property owner and not by the City.

Given the temporary nature of this program, staff recommend the temporary suspension of enforcement of the minimum on-site vehicle parking requirements specified in the City of Richmond Zoning Bylaw to the extent that any temporary patio created under the program impacts the ability to meet those requirements. Despite the recommendation to suspend enforcement, the City retains the right to cancel the suspension and enforce its bylaws if instructed by Council. Any permanent reduction to parking beyond minimum Zoning Bylaw requirements would require a formal application and approval from City Council.

Heritage Alteration Permit Requirements

There are many restaurants in Steveston Village, two of which have already come forward seeking permission for outdoor seating. The majority of Steveston Village is located within the Steveston Village Heritage Conservation Area (SVHCA) (Attachment 1). The SVHCA was created in recognition of the importance that Steveston Village has as a historic site of prime

importance in Canadian history. The intent of the Heritage Conservation Area designation is to retain, preserve and enhance the special heritage features and character of Steveston Village.

Installation of a patio in the SVHCA would typically require a Heritage Alteration Permit (HAP). Maintaining the HAP requirements for temporary patios would require a Council issued HAP for each patio which would add considerable time to the approval process. In light of the expressed desire to create an expedited approval process, staff recommend that Council pass a resolution temporarily suspending enforcement of HAP requirements for temporary patios. As these patios are temporary in nature, are not to involve modifications to any buildings/structures and are to be removed after a defined time period, staff believe there should be no long-term implications to the heritage character of the area. Despite the recommendation to suspend enforcement, the City retains the right to cancel the suspension and enforce its bylaws if instructed by Council. Any permanent patios would be required to obtain a Council issued HAP.

At the General Purposes meeting on May 19, 2020, there was discussion about ensuring that the Richmond Heritage Commission is aware of this program. Staff are in the process of arranging a meeting of the Commission during the week of May 25, 2020 to advise them of this program.

Use of Public Streets

One key component to this program is re-purposing street parking where it can be used to support temporary patios. Where a business requests to use the sidewalk adjacent to their business for a temporary patio, staff will assess the feasibility of using sidewalk space and adjacent parking to accommodate both the temporary patio and circulation space for pedestrians, including space for physical distancing. Due to the practical space requirements, only businesses located on non-arterial streets with street parking will be considered to use sidewalk space for a temporary patio. Businesses will also be restricted to the area directly adjacent to their location (not extending past other businesses) for a temporary patio.

Figure 1 illustrates how sidewalk and street space can be used to support temporary patios on the sidewalk. A patio zone will be created adjacent to the building façade with the remaining frontage depth contributing to the 2.0 metres of physical distancing space in accordance with the provincial guidelines. The adjacent parking lane is then repurposed as an on-street pathway to divert pedestrians around the patio and physical distancing areas. This configuration contains all restaurant related activity near the building and away from pedestrians.

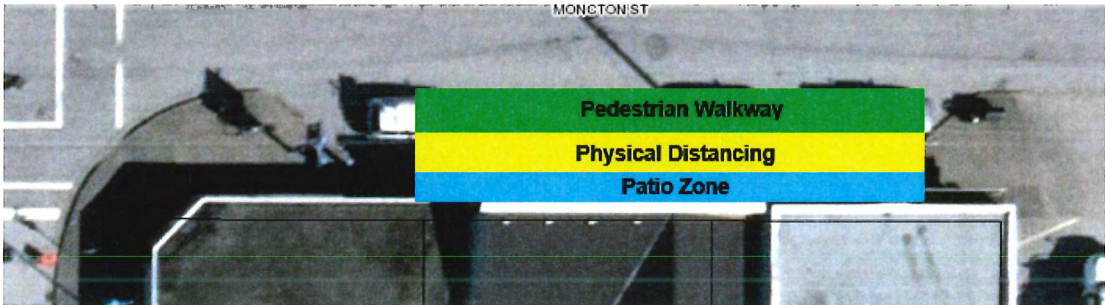


Figure 1: Example Configuration of Frontage Patio Zone

Key transportation considerations to accommodate temporary patio zones include: accessibility of temporary walkways, maintaining existing on-street loading zones and accessible parking spaces, proximity to intersections and physical protection from traffic. Staff will work with applicants that are requesting sidewalk space to ensure all considerations can be accommodated by the applicant.

Construction Guidelines

Whether on public or private property, adherence to construction guidelines provided by the City for the delineation of the patio space will be required in order to ensure the patio area is safely separated from vehicle manoeuvring areas and that accessibility requirements are met. The temporary elements to demarcate the patio area from the public spaces are proposed to include signage, demarcation and barricades but could also include fences and planters. The requirements are dependent on the use and volume of vehicular traffic adjacent to the patio.

Fire Safety, Health and Noise Requirements

While this program is designed to provide an expedited process for a temporary program, it cannot negatively impact Life Safety or Health requirements. In order to ensure adequate life safety, Richmond Fire-Rescue would review each proposal to ensure that patios do not use unsafe heating devices or prevent access to fire hydrants or fire trucks.

While the safe operation of restaurants, cafes and pubs is prescribed in the Provincial Health Order, there are other health considerations related to food service. In the case of temporary patios, Vancouver Coastal Health stated that a food safety review is not required as long as the use of the temporary patio is for the consumption of food and that no processing and cooking will be conducted. Vancouver Coastal Health will monitor the program for health violations that may arise.

In addition to food safety and health requirements, Vancouver Coastal Health also enforces Noise Regulation Bylaw No. 8856 on the City's behalf. Unless the business already has a patio that is permitted to stay open later than 10 pm it is recommended that temporary patios have limited hours such that they can operate no later than 10 pm. In addition, there will be no amplified or live music permitted on the temporary patios. This will address potential concerns around noise although this is something that will be addressed on a case by case basis as concerns arise.

Outdoor Space for Other Types of Businesses

Other types of retail businesses, such as grocery stores, have made inquiries about using outdoor space to expand their operations. The program in this report is designed to support restaurants, cafes and pubs, since the restaurant industry has been one of the hardest hit by the Health Orders in place to slow the spread of COVID-19. While staff will continue to receive proposals on an individual basis, it is not recommended to expand this program to other types of businesses at this time.

Authority to Provide Program Benefits

The City Solicitor has confirmed that under these extraordinary emergency COVID-19 circumstances, the City has the authority to implement the temporary patio program contemplated by this report.

Communication Plan

It is recommended that, in order to increase local awareness, this program is promoted broadly to the business community if approved by Council. Staff will do so via the City's website and social media channels, as well as the Business in Richmond e-news. This will also be communicated to local restaurants through the new WeAreRichmondBC.ca website which is a partnership between the City, Tourism Richmond and the Richmond Chamber of Commerce. The Steveston Merchants Association will also be notified for distribution to their members. Details regarding the program, including the application process, will be made available through the City's Business Support Center.

Staff will also provide monthly updates to Council on the number of applications received and temporary patios in operation as well as other details of the program as they arise. In addition, staff will report back to Council once the program ends on November 1, 2020. Providing monthly updates plus a report back at the end of the program will provide staff and Council the information needed to make timely decisions for the current and any future programs.

Financial Impact

Staff propose that the City not impose an application fee to businesses applying to operate temporary patios. The appropriate license fee for use of City property, including portions of highway and sidewalks, would be determined on a case by case basis.

Conclusion

It is recommended that the program presented in this report to provide expedited approval process for temporary patios be endorsed by Council.

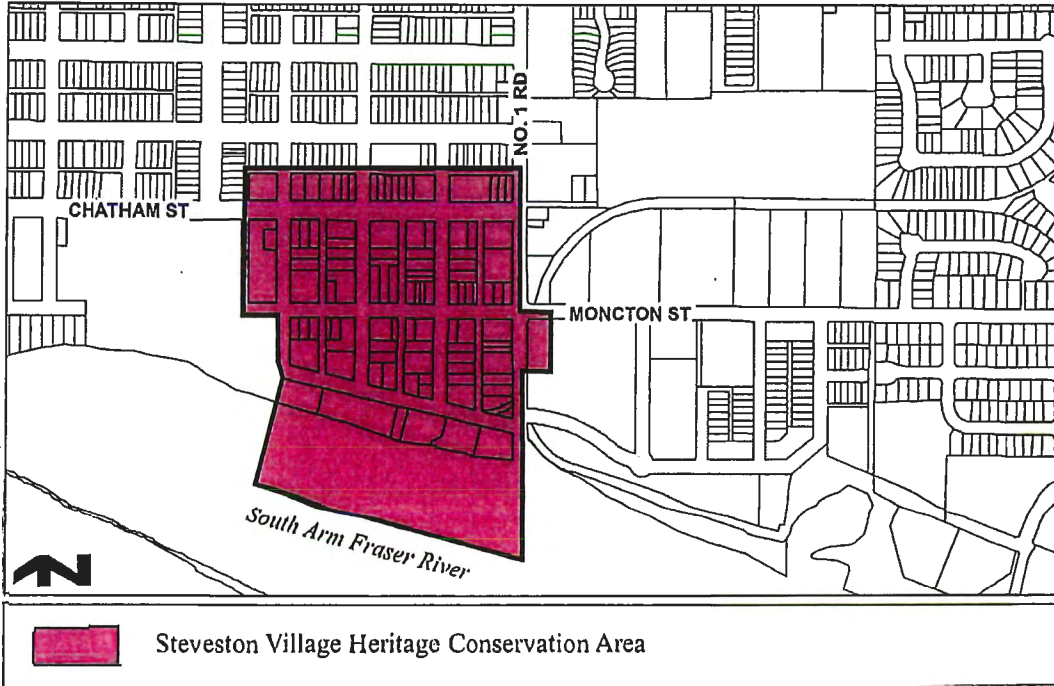


Carli Williams, P.Eng.
Manager, Business Licence and Bylaws
(604-276-4136)

- Att. 1: Map of Steveston Village Heritage Conservation Area
- Att. 2: BC Policy Directive No. 20-13: Temporary Expanded Service Area Authorization

City of Richmond

Steveston Village Heritage Conservation Area Map





Liquor and Cannabis Regulation Branch
POLICY DIRECTIVE
No: 20 - 13

Date: May 22, 2020

To: All LCRB Staff
 All Licensees
 All Industry Associations
 All local government, First Nations and police agencies

Re: Temporary Expanded Service Area Authorization

General Manager Authority

Under the Liquor Control and Licensing Regulation (LCLR), s. 109.1, the General Manager (GM) of the Liquor and Cannabis Regulation Branch (LCRB) may issue a Temporary Expanded Service Area Authorization to food primary, liquor primary, and manufacturer licensees.

New Policy

In response to the COVID-19 pandemic, the Province's March 2020 declaration of a state of emergency and the Provincial Health Officer's March 2020 declaration of a public health emergency, the GM is putting in place time-limited measures to support the Provincial Health Officer's (PHO) direction and recommendations.

This new authorization permits a licensee to temporarily expand their service areas **until October 31, 2020**. The increased service area will allow licensees to serve patrons while complying with the PHO's guidelines regarding physical distancing.

Accordingly, food primary, liquor primary and manufacturer licensees (i.e., wineries, breweries, distilleries) may apply for a Temporary Expanded Service Area Authorization.

To meet the intent of this temporary authorization, licensees will not be permitted to increase or exceed their currently approved person/patron capacities or occupant loads. All means of access to the service area must also be supervised to the satisfaction of the GM. Finally, licensees must comply with all local bylaws and health and fire regulations.

An expedited online application will be available for licensees at no charge. Please check our website for a link to the application.

Explanation

The new policy is provided in the context of the provincial state of emergency and public

health emergency related to the COVID-19 pandemic. Increasing the size of existing service areas is expected to support licensees in complying with requirements under the Provincial Health Orders and recommendations, in particular with respect to social/physical distancing.

Further Information

Further information regarding liquor and cannabis regulation and licensing in British Columbia is available on the Liquor and Cannabis Regulation Branch website at <https://www2.gov.bc.ca/gov/content/employment-business/business/liquor-regulation-licensing>

If you have any questions regarding these changes, please contact the Liquor and Cannabis Regulation Branch toll free in Canada at 1-866-209-2111 or 250 952-5787 if calling from the Victoria area.

Original signed by

Mary Sue Maloughney
Assistant Deputy Minister and General Manager
Liquor and Cannabis Regulation Branch