



## CITY OF ST. ALBERT ADMINISTRATIVE BACKGROUNDER

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### TITLE: 2020 TEMPORARY DEVELOPMENT FEES

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#### PURPOSE OF REPORT

The purpose of this report is to present a motion for which Councillor Hughes gave notice on June 29, 2020.

#### PROPOSED MOTION(S):

That the 21 day advance notice period for a notice of motion be waived in accordance with Section 23.8 of Procedure Bylaw 3/2018.

That for 2020 the city waive temporary development fees for patio licensing on private property.

#### ALIGNMENT TO PRIORITIES IN COUNCIL'S STRATEGIC PLAN

Strategic Priority #2: Economic Development: Enhance business/commercial growth.

#### ALIGNMENT TO LEVELS OF SERVICE DELIVERY

Development, Building Permit Application Review & Enforcement

#### ALIGNMENT TO COUNCIL DIRECTION OR MANDATORY STATUTORY PROVISION

N/A

#### BACKGROUND:

On June 1, 2020, Council approved temporary relaxations (expiring October 15, 2020) to the requirements for patios within the public right of way, primarily in the downtown area. The relaxations included the following provisions:

- Permits unfenced minor patios and retail pop-ups abutting store-fronts;
- No alcohol sales permitted;

- No fees for permits

Since that time, Administration has received one application for a pop-up patio. Over the same period, Administration has received two applications for permanent patios (on private property, with full fees paid).

### **Current Permitting Process**

The normal process for a patio would include a development permit application, and a building permit application (an occupancy agreement with the City would be required for patios proposed on public property). Schedule A (Building Permit Fees) of the Master Rates Bylaw (MRB) currently has a permit fee of \$182 for tenant improvements, alterations, and changes to use or occupancy, plus a \$7.78 Safety Codes Council Fee. Schedule E (Development Permit Fees) of the Master Rates Bylaw currently has a development permit for an accessory use of \$235 for non-residential uses, or \$75 for a temporary patio. The total development and building permit fees for a temporary patio would be \$264.78. The total development and building permit fees for a permanent patio would be \$424.78. The MRB is set by Council; Administration does not have authority to waive fees set out in the MRB. However, the fees for these permits can be waived without amending the bylaw if Council passes a resolution directing administration to forgo said fees.

### Discretionary vs. Permitted Uses

Restaurants and drinking establishments are permitted, discretionary, or *de facto* prohibited uses, depending on the districting of the property. Whether a use is discretionary or permitted affects whether neighbouring property owners are required to be notified of the new use. Any application for a discretionary use must be circulated for 21 days, per Section 686 of the *Municipal Government Act*. Below is a summary of some of the zones where restaurants and drinking establishments are permitted or discretionary uses:

- Restaurants permitted: DT (Downtown), C2 (General Commercial, <50 seats), CC (Corridor Commercial), MC (Mixed Commercial), RC (Regional Commercial)
- Restaurants discretionary: C1 (Neighbourhood Commercial, <50 seats), C2 (General Commercial, >50 seats), CIS (Commercial & Industrial Service), BP2 (Business Park2)
- Drinking establishments permitted: RC (Regional Commercial)
- Drinking establishments discretionary: DT (Downtown), C2 (General Commercial, >50 seats), CC (Corridor Commercial), MC (Mixed Commercial), CIS (Commercial & Industrial Service), BP2 (Business Park2, <50 seats)

## **Items for Consideration**

### AGLC Approval Required for New Liquor Areas

Regardless of City approvals, any efforts to enable liquor consumption/sales in new patios would require AGLC approval. AGLC approval is estimated to take ~3 weeks.

### Capacity Review

Increases to the seating count of a restaurant or drinking establishment would necessitate a development permit review to ensure that parking and washroom capacity requirements are being met.

### Land Use Bylaw

As noted in the bulleted list of permitted and discretionary uses, most drinking establishment uses and some restaurant uses are discretionary uses. As such, a patio permit application for these uses would trigger a notice to properties within a minimum of 30m of the subject property. The notice period is 21 days from the date of the decision, during which time an appeal may be filed. The Subdivision and Development Appeal Board has to hear an appeal within 30 days after receipt of a notice of appeal, per Section 686(1) & (2) of the MGA. To remove the notice requirement would require amending the Land Use Bylaw to make these drinking establishments and restaurants permitted, rather than discretionary uses. An amendment to the land use bylaw would be anticipated to take ~6-8 weeks at a minimum.

### No Fee Services

If Council temporarily waives patio fees, Administration would recommend that a “self-certification” system similar to that used in Edmonton be utilized to enable Administration to focus on incoming paid permit applications.

Edmonton’s Self-Attest model includes the following requirements, for example:

- Indemnification of the City
- Proof of Insurance (\$2,000,000 policy)
- No outdoor speakers
- Use of temporary patio shall conform with the Community Standards Bylaw at all times
- On-site parking may be used for temporary patio space, except the required number of designated Accessible Parking Stalls, which must remain available for parking use
- Wheelchair access must be provided to, and throughout, the temporary patio
- Umbrellas must stand at least 2.1m (7ft) above the walking surface
- Cooking or food and drink preparation is not permitted on temporary patios
- A minimum 1.5m (5ft) clearance from fire department (siamese) connections and hydrants must be maintained on a temporary patio

- A fire extinguisher (minimum 2A-10BC) must be available within 23m (75ft) of any part of the temporary patio
- Etc. (for more see [https://www.edmonton.ca/business\\_economy/temporary-outdoor-patios-sidewalk-cafes-and-retail-space.aspx](https://www.edmonton.ca/business_economy/temporary-outdoor-patios-sidewalk-cafes-and-retail-space.aspx))

In using a self-attest model, applicants could verify that they meet certain parameters required for safety and indemnity, while limiting the amount of staff time spent on a \$0 permit. From a service level impact perspective, a self-attest process similar to that in Edmonton would be expected to have negligible impacts on other development permit processing, with the exception of the time it would take to finalize a process (~1 week). However, based on current rate of patio applications, there may be limited demand, which would limit the amount of administrative time spent on patio permits, should Council not direct Administration to temporarily establish a “self-attest” model.

If a building permit is required, it is anticipated that Building Inspections would still be required to provide inspections to verify safe ingress/egress and appropriate clearances.

Report Date: July 6, 2020  
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Chief Administrative Officer: Kevin Scoble

[https://d.docs.live.net/8ea2fb3aedd311d1/Desktop/Work Files/AR-2020 Temporary Development Fees\\_final.docx](https://d.docs.live.net/8ea2fb3aedd311d1/Desktop/Work Files/AR-2020 Temporary Development Fees_final.docx)