



# AGENDA

Corporation of the Town of Kirkland Lake  
Special Meeting of Council  
Electronically via Zoom  
June 23, 2020  
4:40 p.m.

1. **Call to Order and Moment of Silence**

2. **Approval of the Agenda**

***BE IT RESOLVED THAT** the Agenda for the Special Meeting of Council held on June 23, 2020 beginning at 4:40 p.m. be approved as circulated to all Members of Council.*

3. **Declaration of Pecuniary Interest**

4. **Reports of Municipal Officers and Communications**

4.1 **Temporary Seasonal Patio Program**  
**Ashley Bilodeau, Manager of Land Development and Planning**

***BE IT RESOLVED THAT** the correspondence received from Eugene Ivanov on June 17<sup>th</sup>, 2020 be received,*

***THAT** Report Number 2020-DEV-031 entitled “**Temporary Seasonal Patio Program**”, be received,*

***THAT** Council approve the “**Temporary Seasonal Patio Program**” as presented,*

***THAT** Council delegate authority to the Director of Development Services to approve applications received under the Temporary Seasonal Patio Program, including Encroachment Agreements into municipal road allowances,*

***THAT** Council direct staff to apply for a Temporary Use By-law to reduce the restrictions associated with expanded patios on private land, and*

***THAT** Council waive user fees associated with establishing a temporary outdoor patio, with the exception of building permits.*

5. **Closed Session**

***BE IT RESOLVED THAT** Council move into an In-Camera meeting pursuant to Section 239(2) to discuss 1 matter involving employee negotiations.*

**PLEASE NOTE: All items on this Agenda are for Council's consideration and will be voted on at the meeting.**

- 5.1 CUPE Mandate  
Kassandra Young, Manager of Human Resources

6. **Matters from Closed Session**

7. **Confirmation Bylaw**

Bylaw 20-063                      Being a bylaw to confirm the proceedings of Council at its meeting held June 23, 2020

***BE IT RESOLVED THAT the following bylaw be read a first, second, and third time, numbered, passed, signed by the Mayor and the Clerk, and the Seal of the Corporation be affixed thereto;***

***Bylaw Number 20-063, being a bylaw to confirm the proceedings of Council at its meeting held June 23, 2020.***

8. **Adjournment**

***BE IT RESOLVED THAT Council adjourn the June 23, 2020 Special Meeting of Council.***

## REPORT TO COUNCIL

Meeting Date: 6/23/2020	Report Number: 2020-DEV-031
Presented by: Ashley Bilodeau	Department: Development Services

### REPORT TITLE

Temporary Seasonal Patio Program

### RECOMMENDATION(S)

**BE IT RESOLVED THAT** the correspondence received from Eugene Ivanov on June 17<sup>th</sup>, 2020 be received,

**THAT** Report Number 2020-DEV-031 entitled “**Temporary Seasonal Patio Program**”, be received,

**THAT** Council approve the “Temporary Seasonal Patio Program” as presented,

**THAT** Council delegate authority to the Director of Development Services to approve applications received under the Temporary Seasonal Patio Program, including Encroachment Agreements into municipal road allowances,

**THAT** Council direct staff to apply for a Temporary Use By-law to reduce the restrictions associated with expanded patios on private land, and

**THAT** Council waive user fees associated with establishing a temporary outdoor patio, with the exception of building permits.

### BACKGROUND

On June 12, 2020, the Province of Ontario announced the second stage of the framework for reopening the Province to restart the economy. In this second stage, restaurants, bars, food trucks and other food and drink establishments were authorized to open for dining in outdoor areas only, such as patios, curbside, parking lots and adjacent premises.

Restaurants or liquor licensees who wish to temporarily extend the physical size of

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existing licensed patios, or temporarily add a new licensed patio within the approved period are permitted to do so, if the following criteria are met:

- The physical extension of the premises is adjacent to the premises to which the licence to sell alcohol applies;
- **The municipality in which the premises is situated does not object to an extension;**
- The licensee is able to demonstrate sufficient control over the physical extension of the premises;
- There is no condition on the liquor licence prohibiting a patio.

In response to criteria 2, Mr. Ivanov submitted correspondence on June 17<sup>th</sup>, 2020 to seek municipal permission to expand his patio for the purpose of serving more customers at the White Eagle (8, 10 and 12 Woods Street). Mr. Ivanov's request is complicated due to the planning framework in place.

The property is currently designated "Residential" in the Official Plan and zoned "Residential Low to Medium Density (R2)". The White Eagle located at 8 Woods Street likely retains a legal non-conforming use. 10 Woods Street has a residential dwelling at the rear of the property and a 20' x 20' patio that was established by way of a minor variance in 2010. 12 Woods Street is currently vacant. The extension of a patio onto 10 and 12 Woods Street for the purpose of selling food and alcohol is non-compliant with the Official Plan and Zoning By-law, and as a result, could not be supported by Planning staff.

In order to resolve this issue, it is in the Town's best interest to develop a program and temporary by-law provision to permit temporary patios based on select criteria and guidelines that would be applicable to all requests. The intent of this program and By-law is to support local business with municipal approvals that would normally be required in the form of an Official Plan Amendment, Zoning By-law Amendment, Site Plan Amendment, etc. This recommendation is provided to allow municipal approvals to have regard for the Provincial Governments reopening stage 2 and to support local businesses and economic development. This support is crucial given the restrictions and closures resulting from the COVID-19 Pandemic.

## **R A T I O N A L E**

The response to the COVID-19 Pandemic has had a severe impact on many local businesses and their employees. Businesses permitted to reopen or expand operations under Stage 2 will do so as soon as they can, provided it is cost-effective for them to operate while complying with various health regulations. With respect to restaurants and bars now being permitted to serve patrons on their patios, and with directives from the Province on how to expand the physical size of patios for the purpose of attracting more customers, many municipalities have implemented a "Patio Expansion Program" and a Temporary Use By-law. It is suggested that Kirkland Lake implement a similar

framework to encourage economic development and provide support to the local businesses. This is consistent with Kirkland Lake's strategic priorities adopted at the June 16, 2020 Council meeting.

Staff have developed a "Temporary Seasonal Patio Program" (Attachment 1) for Council's consideration. A Temporary Use By-law is also suggested in order to eliminate hurdles and/or fees associated with expanding the occupancy of the restaurant and/or bar to support local businesses in opening quickly and maximizing revenues this summer. Within the Program Guidelines, there are restrictions and regulation to protect the health and safety of customers, nearby residents and the general public.

## **OTHER ALTERNATIVES CONSIDERED**

The alternatives will result in increased timelines for approval and the applicant being subject to fees. Some of these processes (i.e. zoning amendments, minor variances, encroachment agreements and/or site plan control agreements) could take 3 - 6 months, resulting in lost revenue.

## **FINANCIAL CONSIDERATIONS**

Staff are proposing to process patio expansion permits at no cost to the applicants. All costs associated with the implementation of these permits will be documented and charged to COVID related expenses. It is expected that these costs will be recovered through Federal/Provincial support program offered to the municipalities.

## **RELATIONSHIP TO STRATEGIC PRIORITIES**

This Program is in line with the Strategic Pillar of Promoting Economic Growth and the following strategic priorities:

- Support local businesses;
- Encourage retention and attraction of businesses in Kirkland Lake; and
- Building capacity to execute Economic Development.

## **ACCESSIBILITY CONSIDERATIONS**

The Program Guidelines ensure that accessible washrooms and accessible parking spaces remain open and available for use.

## **C O N S U L T A T I O N S**

Meagan Elliott, Clerk  
Rob Adair, Fire Chief  
Wilfred Hass, Director of Economic Development  
Michel Riberdy, Manager of Public Works  
Bonnie Sackrider, Director of Community Services  
Ric McGee, CAO

## **A T T A C H M E N T S**

Attachment 1 – Draft Temporary Seasonal Patio Program  
Attachment 2 – Draft Temporary Use By-law  
Attachment 3 – Correspondence from Eugene Ivanov

The Town of Kirkland Lake is introducing a Temporary Seasonal Patio Program for the summer of 2020. This program is in response to the COVID-19 Pandemic and is intended to support local restaurants by providing flexibility to restaurant owners while at the same time ensuring safety standards and measures remain in place.

### **Purpose**

This Program provides a streamlined process to accelerate approvals for new or expanded temporary outdoor patios, that align with Provincial directives. Approvals of a new or extended patio are only valid for the balance of 2020.

### **Temporary Seasonal Patio Guidelines**

1. Temporary patios are permitted only where the patio installation can be located adjacent to or in an existing parking lot dedicated to that business.
2. Temporary patios are not permitted for which only a special occasion permit or permits are issued.
3. Temporary patios approved in 2020 permitted under this Program shall be permitted until October 31, 2020; however, the Town may terminate these permissions with 48 hours notice, if the owner fails to abide by the conditions within this Program. The owner shall be responsible for the removal of the patio no later than November 1, 2020. The implementation and approval of any applications in accordance with this Program does not mean that a temporary or permanent patio application will be approved in the future.
4. Patios shall not exceed the indoor licensed capacity or occupancy requirements under the *Building Code* and *Fire Code*.
5. The owner shall be responsible for obtaining all relevant permissions, including but not limited to licences and permissions from the AGCO and the property owner.
6. The business owner shall mitigate any negative impacts on adjacent or nearby residential development.
7. No outdoor speakers or sound systems may be used. The use of temporary patios is regulated by the Town of Kirkland Lake Noise By-law Number 07-065.
8. The patio shall be compliant with the Accessibility for Ontarians with Disabilities Act (AODA).
9. There shall be full compliance with the Ontario Fire Code.
10. Cooking or food and drink preparation shall not be permitted on any temporary patio.
11. No open flames are to be used on tables or in any part of a temporary patio.

12. A minimum clearance of 1.5 metres from fire department connections and hydrants shall be maintained.
13. Temporary patios shall not extend in front of adjacent tenant spaces, exits or beyond business frontage without written permission from adjacent property owners and tenants; this includes any overhanging elements.
14. Tents, canopies, shelter structures or stages are not permitted. Temporary patio perimeter fencing, planters or barriers approximately 1.2 metres high are permitted, provided they do not damage any public property and are secured without endangering underground utilities.
15. Exit gates shall open freely outward, but not into traffic.
16. A clear path of pedestrian travel of 2.0 metres minimum shall be maintained. A clear path of 2.3 metres is recommended.
17. The side of the temporary patio adjacent to a Town roadway or drive aisle shall maintain a minimum distance of 1.0 metre from the edge of any adjacent travel lane.
18. A separate building permit shall be required for any platform/deck construction if located above 0.6 metres from the ground.
19. No serving on the patio is permitted after 9:00 p.m., local time.
20. If the temporary seasonal patio is located on municipal land (i.e. road allowance) an encroachment agreement and proof of insurance (\$2 million in liability) will be required.

The Temporary Seasonal Patio shall not:

1. Be located in through traffic lanes or lanes marked as no parking/stopping/fire route/accessible parking.
2. Be located in a municipal parking lot or on surplus property without prior approval from Council.
3. Obstruct underground utility access, electrical transformer vaults, utility boxes, parking metres, loading zones and other infrastructure.
4. Damage town-owned or private trees in an effort to design, construct, maintain or operate the temporary patio.
5. Conflict with existing pedestrian crossings.
6. Permit smoking, pursuant to the Smoke-Free Ontario Act and 'no smoking' signage shall be posted at the entrance/exit.
7. Permit electrical power cords or any device that cross the travelled portion of the boulevard.
8. Permit obstruction of stormwater flows or block stormwater drains. The applicant shall be responsible for clearance of any debris and overall maintenance to ensure free flow.

### **Patio Design Details**

- All applications should include a sketch/site plan that properly identifies:



- Existing establishment;
  - Existing patio(s);
  - Proposed temporary patio expansion;
  - Fencing/barricading (identify material to be used).
  - Patio layout
    - Location of all tables (should be 1.8 metres between patio patrons and passing pedestrian traffic)
    - Size of tables
    - Proposed number of chairs at each table
    - Entrance to the patio and building/restaurant
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- Fencing or barricading of the patio must form a fully enclosed perimeter.
  - Fencing cannot obstruct vehicular/pedestrian sightlines/fire route and access.

The Town's Temporary Seasonal Patio Program is a temporary measure to assist businesses during the COVID-19 Pandemic. If businesses wishes to create a permanent patio, please contact the Development Services Department for policies, procedures, applications and permit processes at [building@tkl.ca](mailto:building@tkl.ca) or by phone at 705-567-9365.



## Temporary Seasonal Patio Program - Application Form

Applicant: \_\_\_\_\_

Owner: \_\_\_\_\_

Business Name: \_\_\_\_\_

Business Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ E-Mail: \_\_\_\_\_

Do you plan to expand the patio on a temporary or permanent basis?

Temporary     Permanent

Do you currently have an outdoor patio?

Yes     No

What is the current inside seating capacity within your restaurant? \_\_\_\_\_

Has your property owner given you permission to operate a new or expanded patio? \_\_\_\_\_

How many tables do you wish to place on your outdoor patio? \_\_\_\_\_

How many chairs do you wish to place on your outdoor patio? \_\_\_\_\_

As the applicant, I confirm that I have read the Program Guidelines for Temporary Seasonal Patios and that this application is compliant. I have attached to this application the required information. Further, I understand and agree that all material used in the construction of the temporary patio area are fully removable and that the area will be restored to its original condition no later than October 31, 2020.

I understand that this application form is a public document and that any and all information contained in it, including personal information as that term is defined in the *Freedom of Information and Protection of Privacy Act of Ontario*, and is open for inspection by the public.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_



THE CORPORATION OF THE TOWN OF KIRKLAND LAKE

BY-LAW NUMBER 20-\_\_\_

**BEING A BY-LAW TO AMEND THE CORPORATION OF THE TOWN OF KIRKLAND LAKE'S ZONING BY-LAW NO. 12-019**

**WHEREAS** authority is granted under Section 34 and 39 of the *Planning Act, R.S.O. 1990*;

**AND WHEREAS** an application has been made to the Town of Kirkland Lake to amend the Town of Kirkland Lake's Zoning By-Law Number 12-019

**AND WHEREAS** this By-Law conforms to the Official Plan for the Kirkland Lake Planning Area;

**NOW THEREFORE BE IT RESOLVED THAT THE COUNCIL OF THE CORPORATION OF THE TOWN OF KIRKLAND LAKE ENACTS AS FOLLOWS:**

**1. Special Zone Standards**

*Outdoor patios accessory* to an existing permitted *restaurant* may be located on an adjacent property, or within a parking area, parking space or drive aisle provided:

- a) There shall be no restriction on the maximum area of an outdoor patio;
- b) Notwithstanding a) above, an *outdoor patio* located within a parking area shall not occupy no more than the greater of:
  - a. 4 of the required parking spaces; or
  - b. 33% of the provided parking spaces for the use.
- c) An *outdoor patio* area associated with a restaurant or brewery shall be exempt from requirements for provision of parking spaces.
- d) The *outdoor patio* area does not occupy any required fire route.
- e) The *outdoor patio* does not occupy accessible parking spaces.
- f) The *outdoor patio* shall not be used to provide entertainment such as performances, music and dancing.
- g) An *outdoor patio* shall be setback a minimum distance of 1.0 metre from the mutual property line shared with a municipal road; 1.5 metre from all other property lines or 1.2 metres from a parking area.
- h) An *outdoor patio* shall be setback 12.1 metres from a property line with a dwelling unless permission from the owner of the property is obtained.
- i) The property owner is exempt from requiring a Site Plan Control Agreement amendment to accommodate the *outdoor patio*.

This By-law shall expire on November 1, 2020, in accordance with the provisions of Section 39 of the Planning Act RSO 1990, c.P 13, as amended.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 14<sup>th</sup> DAY OF JULY, 2020.**

\_\_\_\_\_  
Patrick Kiely, Mayor

\_\_\_\_\_  
Meagan Elliott, Clerk

To council

I am owner of the White Eagle Bar at [8 Woods Street Kirkland Lake](#)

I would like expand the patio seating to the adjacent parking area. We own 10 Woods Street and 12 Woods Street and would like to rope a portion of this parking area off and place a few tables and umbrellas in this area keeping in mind social distancing

Thank you

Eugene Ivanov



**THE CORPORATION OF THE TOWN OF KIRKLAND LAKE**

**BY-LAW NUMBER 20-063**

**BEING A BY-LAW TO CONFIRM THE PROCEEDINGS OF COUNCIL AT ITS MEETING HELD JUNE 23, 2020**

**WHEREAS** Subsection 5(1) of the Municipal Act, 2001, S.O. 2001, Chapter 25, as amended, provides that the powers of a municipal corporation are to be exercised by its Council;

**AND WHEREAS** Subsection 5(3) of the said Municipal Act provides that the powers of every Council are to be exercised by by-law;

**AND WHEREAS** it is deemed expedient that the proceedings of the Council of the Town of Kirkland Lake at this meeting be confirmed and adopted by by-law;

**NOW THEREFORE BE IT RESOLVED THAT THE COUNCIL OF THE CORPORATION OF THE TOWN OF KIRKLAND LAKE ENACTS AS FOLLOWS:**

- 1 The actions of the Council of the Town of Kirkland Lake in respect of each motion passed and other actions taken by the Council of the Town of Kirkland Lake at this meeting are hereby adopted and confirmed as if all such proceedings were expressly embodied in this by-law.
- 2 The Mayor and Councillors of the Town of Kirkland Lake are hereby authorized and directed to do all things necessary to give effect to the actions of the Council of the Town of Kirkland Lake referred to in the preceding section.
- 3 The Mayor and the Clerk are hereby authorized to execute all documents necessary on behalf of the Council and to affix thereto the corporate seal of the Town of Kirkland Lake.
- 4 This by-law comes into force upon adoption by Council of the Town of Kirkland Lake.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 23<sup>rd</sup> DAY OF JUNE, 2020.**

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Pat Kiely, Mayor

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Meagan Elliott, Clerk