
HALDIMAND COUNTY

Report PED-EDT-11-2018 Seasonal Sidewalk and Street Patio Pilot Program For Consideration by Council in Committee on June 5, 2018



OBJECTIVE:

To present a pilot program which would permit the use of municipal property for commercial seasonal patios.

RECOMMENDATIONS:

1. THAT Report PED-EDT-11-2018 Seasonal Sidewalk and Street Patio Pilot Program be received;
2. AND THAT the Seasonal Sidewalk and Street Patio Pilot Program (Attachment #1) to Report PED-EDT-11-2018 be approved;
3. AND THAT the General Manager of Planning and Economic Development be given the delegated authority to approve applications and issue permits to allow the use of Municipal property for seasonal patios, and also the authority to revoke a permit based on non-compliance with parameters of the seasonal sidewalk and street patio pilot program or on the basis of emergency construction that requires removal of the patio;
4. AND THAT where a permit to allow an establishment to use municipal property for seasonal patios has been issued, the Clerk be authorized to provide a letter of non-objection for related applications for Temporary Extension of a Liquor Sales Licence through the Alcohol and Gaming Commission of Ontario;
5. AND THAT Schedule P of Haldimand County's User Fees and Service Charges By-law, be updated to include an application fee (initial and renewal) for the use of municipal property for sidewalk and on-street patios effective June 11, 2018;
6. AND THAT staff be directed to monitor the Seasonal Sidewalk and Street Patio Pilot Program and bring back results and recommendations for a permanent program in the 2020 season.

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Respectfully submitted: Craig Manley, MCIP, RPP, General Manager of Planning and Economic Development

Approved: Donald G. Boyle, Chief Administrative Officer

EXECUTIVE SUMMARY:

Over the past several months the Economic Development and Tourism Division has received several inquiries for use of municipal property for seasonal patios across the County. The purpose of this report is to facilitate the desire for seasonal patios by establishing a consistent set of criteria. It is intended that a 2018 pilot program be initiated to be reviewed following the 2019 season before introducing a permanent program.

BACKGROUND:

Seasonal patios and sidewalk cafés on municipal property are becoming increasingly popular in Ontario. Typically located in downtown and Business Improvement Areas (BIAs), patios can act as an attraction and help elevate an area as a destination for tourists. The increased activity on the streetscape helps contribute to a vibrant and robust downtown area and is an opportunity for businesses to increase their use and revenue on a seasonal basis.

Over the past several years, Haldimand County has made substantial investments in the downtown and hamlet areas of the County. This has been through urban and rural streetscaping projects, the Community Improvement Grant programs that have facilitated façade improvements to private businesses, as well as support to various organizations responsible for the beautification of the downtown areas. The success of these initiatives have transformed these areas, in many cases attracting new dining and entertainment businesses to the downtown areas in the County. The interest from local businesses to now establish patios demonstrates the downtown streetscapes are a destination for both residents and tourists.

ANALYSIS:

Over the past several months, staff have received a number of inquiries from various businesses indicating an interest in establishing a seasonal patio. The inquiries have come from several of our communities. As a result, staff across several divisions including Support Services, Planning and Development, Roads Operations, Building Controls and By-law Enforcement and Economic Development and Tourism met to discuss how best to implement a municipal framework to allow for seasonal patios across Haldimand County. Seasonal patios can take two forms: a patio immediately adjacent to the business on the sidewalk, or a patio that is established in an on-street parking area in front of the business.

Moving forward, staff are recommending a pilot program that would allow for both sidewalk patios and on-street patios. A sidewalk patio can be described as publicly owned lands contiguous to an indoor commercial establishment that are not enclosed by walls or a roof and where seating is provided for food and beverages to be served to the public on a temporary seasonal basis. On-street patios are patios located on lands that are publicly owned and regularly used for on-street parking. Examples of both style of patio can be found in Attachment 2.

Over the past several years, many municipalities have successfully implemented seasonal patio programs. Following the requests received from local business owners, staff conducted a municipal scan to gather best practices that could be implemented in Haldimand County. Overall, there were no major concerns or issues identified by those municipalities with a similar program in place.

Scan of Neighbouring Municipalities

Municipality	Programs	Comments
Norfolk County	<ul style="list-style-type: none">• Encroachment for Outdoor Seasonal Patios• Simcoe Sidewalk Pilot	<ul style="list-style-type: none">• Sidewalk pilot is limited to Simcoe BIA area for pilot
City of Hamilton	<ul style="list-style-type: none">• Outdoor Boulevard Café• On-Street Patio	<ul style="list-style-type: none">• Boulevard requires encroachment agreement• Patio addressed through occupancy permit
Town of Fort Erie	<ul style="list-style-type: none">• Outdoor Patio on Municipal Land	<ul style="list-style-type: none">• For Sidewalk Patio only, permit is issued
City of Welland	<ul style="list-style-type: none">• Addressed case by case	<ul style="list-style-type: none">• License of Occupation

City of North Bay	• Downtown Sidewalk Patio Policy	• License agreement
City of Orillia	• Sidewalk patio application	• Lease agreement

In an effort to provide an efficient and effective program in Haldimand County, staff are recommending a permit process be established to allow for seasonal patios. The recommendation is to implement an internal review process to allow staff to approve the placement of a patio while ensuring all public safety concerns have been addressed. Attachment 1 includes the proposed pilot program in its entirety, as well as an example of the permit. Some of the key standards are as follows:

- Seasonal patios will be permitted only where the temporary installation can be located directly in front of the associated business either on the sidewalk or an on-street parking space and will be limited to one space per establishment;
- One additional parking space seasonal patio maybe permitted based on written consent of the neighbouring property owner;
- The applicant must notify any active BIA in the community, upon submitting an application;
- Seasonal patios on municipal property shall only be permitted from May 1st to October 31st;
- A seasonal patio will operate only during normal business hours and must cease operation by 11:00 p.m.;
- At the end of each business day, the commercial establishment is required to clean the sidewalk in and around the outdoor patio area and remove debris to a covered refuse receptacle. Garbage cannot be placed in County waste receptacles;
- It is the responsibility of the applicant to meet all licensing requirements that would normally be required to operate the commercial establishment (Health Unit, Alcohol and Gaming Commission of Ontario) and provide confirmation of same upon request;
- A minimum 1.5 metre clearance of the sidewalk must be maintained and any other requirements to satisfy the *Accessibility for Ontarians with Disabilities Act*;
- Applicants are responsible for all costs associated with the application, construction, maintenance, storage and removal of the patios, as well costs related to repairing damage to municipal property resulting from the patio or its operations;
- Establishments must have required washroom capacity per the *Ontario Building Code* to accommodate additional patrons;
- Proposals must not obstruct underground utility access, electrical transformer vaults, utility boxes, loading zones, hydrants, signage, street furniture and other infrastructure;
- Haldimand County will have the right to maintain the municipal property in order to carry out repairs or maintenance to the municipal property. Where possible, Haldimand County will provide written notice five (5) days prior to entering. The County has the right to suspend the permit and undertake removal of the patio at the applicant's expense;
- Materials for patios should be of high quality and complement existing façades per the County's Downtown Urban Design Guidelines;
- Establishment must be in conformity with all County/Provincial/Federal by-laws and legislation. i.e. property standards, zoning by-laws, noise by-law, official plan, etc.;
- All seasonal patios must be reviewed in accordance with the *Fire Protection and Prevention Act*; and
- Seasonal patios proposed in on-street parking will require approval of the Director of Engineering in terms of adequacy of location relative to road function (speed, safety, traffic movement, sight lines), as well as adequacy of parking available in the general area.

The proposed approval process for the Seasonal Patio Program is as follows (a flow chart of the application process can be found in Attachment 1):

1. Economic Development and Tourism staff would meet with the proponent to review the patio request and review the application requirements and act as the single point of contact.
2. Completed applications with the applicable fees will be received by Economic Development and Tourism division. The application will be circulated internally to a staff review committee similarly to the Community Partnership Program and the Community Improvement Plan. The staff review committee will include: Support Services, Engineering Services, Roads Operations, Water and Wastewater, Emergency Services and Building Controls and By-law Enforcement staff to ensure the patio complies with all legislative and public safety requirements. Applications will also be reviewed by the Haldimand County *Accessibility for Ontarians with Disabilities Act* (AODA) committee or internally by staff depending on time sensitivity.
3. The General Manager of Planning and Economic Development will have the authority to approve applications and issue permits.
4. After the patio is erected, Economic Development and Tourism, Roads Operations, Building Controls and By-law Enforcement and other staff as required from the internal review team will perform an inspection to ensure compliance with guidelines.
5. The General Manager of Planning and Economic Development will also have the authority to revoke permits if the commercial establishment is in non-compliance with parameters of the seasonal sidewalk and street patio pilot program or on the basis of emergency construction that requires removal of the patio.

Staff will monitor the program for uptake, operator and visitor feedback, as well as any complaints made about the patios before recommending a permanent program in 2020. Further, consultation with the BIAs, Board of Trade and the local Chambers of Commerce will take place during the pilot period.

Staff believe that proceeding with the proposed program provides the proponent the greatest flexibility, at reasonable rates, while ensuring staff are thoroughly involved throughout the process. Staff are also requesting the Clerk receive delegated authority to provide non-objection letters to the Alcohol and Gaming Commission of Ontario as required for the temporary extension of liquor sales licenses so as to expedite the process.

FINANCIAL/LEGAL IMPLICATIONS:

Staff have established an application fee for use of municipal property to be included in Schedule P of the County's User Fees and Services Charges by-law. The recommended fees are as follows:

- Initial application fee of \$280 for a first time application.
- A \$100 renewal application fee for returning applicants that are not making substantive changes to their patio design, size or location.

All fees and charges in this report were developed in coordination with the County's Finance Division and will be incorporated into the County's User Fees and Service Charges by-law. Costs are calculated utilizing the approved methodology within Schedule R in the Council approved User Fees and Service Charges by-law.

There is an assumed risk with permitting these features on municipal property. Staff's research into best practices is anticipated to help to mitigate risks. Additionally, all participating business will be required to annually submit a certificate of insurance demonstrating Commercial General Liability coverage in the amount of two million dollars (\$2,000,000) with the County listed as an additional insured.

Economic Development and Tourism staff are of the opinion that permitting seasonal patios will assist in drawing more residents and visitors to our downtown areas and provide an economic spinoff to the entire area. Staff believe that the opportunities for tourism attraction outweigh the potential risks.

STAKEHOLDER IMPACTS:

Several Haldimand County divisions will be responsible for the implementation and monitoring of the program. There is also a role for consultations with local business organizations. The patio pilot was discussed at a Haldimand Business Network Meeting in May and was received positively.

REPORT IMPACTS:

Agreement: No

By-law: Yes

Budget Amendment: Yes

Policy: No

ATTACHMENTS:

1. Haldimand County Seasonal Sidewalk and Street Patio Pilot Program.
2. Photos of a sample sidewalk and on-street patio.