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# HALDIMAND COUNTY

## Report EDT-12-2020 Seasonal Sidewalk and On-Street Patio Program Installation Period Extension



For Consideration by Council in Committee on October 27, 2020

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### OBJECTIVE:

To temporarily extend the Seasonal Sidewalk and On-Street Patio Program for the 2020 season as a result of COVID-19 restrictions currently in place.

### RECOMMENDATIONS:

1. THAT Report EDT-12-2020 Seasonal Sidewalk and On-Street Patio Program Installation Period Extension be received;
2. AND THAT a request to temporarily extend the Seasonal Sidewalk and On-Street Patio Program due to ongoing COVID-19 restrictions be approved, until establishments are able to return to full operational capacity or January 1, 2021, whichever comes first;
3. AND THAT authority be delegated to the General Manager of Community and Development Services to extend the Seasonal Sidewalk and On-Street Patio Program permit to allow the use of municipal property for seasonal patios as outlined in Report EDT-12-2020.

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**Reviewed by:** Lidy Romanuk, BA, EcD, Manager, Economic Development and Tourism

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**Approved:** Craig Manley, MCIP, RPP, Chief Administrative Officer

### EXECUTIVE SUMMARY:

In May 2020, Council approved Haldimand County's Seasonal Sidewalk and On-Street Patio Program as a permanent initiative. This season three businesses secured permits to operate seasonal patios on public property and these permits expire on October 31, 2020. Due to COVID-19 restrictions, permit holders are requesting to retain additional outdoor seating for as long as practical, given the continued limits on dining in. This report seeks to accommodate that need by extending the program for another 3 months to the end of the year.

### BACKGROUND:

In 2018, Council approved the Seasonal Sidewalk and On-Street Patio Pilot Program, which granted permission to commercial establishments to use County Property for seasonal patios during the summer months of 2018 and 2019 (May 1<sup>st</sup> to October 31<sup>st</sup>). This program was then made permanent in May 2020.

The 2020 patio season is now nearing its end and permit holders are requesting the season be extended, in order to retain additional outdoor seating for as long as practical. Staff are suggesting this be addressed by extending the Seasonal Sidewalk and On-Street Patio Program period from October 31<sup>st</sup> until the business is able to return to full operational capacity (or until January 1, 2021, whichever comes first). This would also align with permissions currently in place for patios on private property established by staff earlier this year in response to Haldimand moving into the Province's Stage Two of reopening and the COVID-19 restrictions imposed on restaurants and similar establishments as a result.

## ANALYSIS:

Now that the Seasonal Sidewalk and On-Street Patio Program season is coming to an end (October 31<sup>st</sup>) staff have received an inquiry from one of the three permit holders to expand their patio season to January 1, 2021 to align with the Private Seasonal Patio program. Doing so will allow the business to continue to host additional customers than what is currently permitted indoors, and also to remain competitive with those establishments that have a private seasonal patio permit. In September 2020, staff began to review the feasibility of expanding the program's season with internal staff from various divisions. All current permit holders were contacted to assess interest in expanding the season (two of the three businesses answered in the affirmative).

Municipal staff across several divisions including Legal & Support Services, Engineering Services, Planning and Development, Roads Operations, Emergency Services, Building & Municipal Enforcement Services, and Water & Wastewater Engineering & Compliance were also consulted on expanding the current patio season. The following comments were provided by staff during the review process:

- Roads Operations and Emergency Services indicated the need to consider who would be responsible for winter control and snow removal, and the additional time and cost associated with this clearance;
- Legal and Support Services indicated the need to ensure pedestrian and emergency service access to storefronts in urban areas due to snow maintenance and winter control;
- Haldimand County's *Accessibility for Ontarians with Disabilities Act* (AODA) Committee also identified snow removal during the winter months as a key consideration and the need to ensure a clear walkway for pedestrians.

**Comment:** The business owner interested in a patio extension would be willing to commit additional resources to hire a contractor for snow removal around and adjacent to the existing patios (both on sidewalk and those located in parking spaces). While businesses are responsible for clearing sidewalks in front of their establishment, the hiring of a contractor demonstrates a commitment that would ensure a clear pathway around the patios for emergency personnel and pedestrians. It also ensures the potential for increased costs due to snow removal does not become the responsibility of the County. This process will be managed through the permitting process (and listed as a condition of the permit). The business owner will be required to sign the permit to acknowledge and agree to the requirement to retain a contractor for snow removal. In addition, the business owner will acknowledge that if the contractor is not removing the snow on a timely and regular basis, that the County will have the ability to suspend the permit and remove the patio at the owner's expense (please see Attachment 2).

- Roads Operations and Emergency Services also noted if heaters were installed on patios, they would need to meet Fire Code standards.

**Comment:** At this time, staff are aware of only one patio permit holder that is interested in installing heating on their patio. Upon Council's approval of the extension, staff will reach out to

all permit holders to provide an outline of Fire Code regulations and further request that they reach out to Haldimand County's Fire Prevention Officers to discuss plans to install heat and any type of tent structure.

- Legal and Support Services indicated the need to consider the liability associated with damage during the course of regular snow removal.

**Comment:** Any damage to patios via regular snow removal will be covered under the business's insurance or under Haldimand County's insurance (depending on the nature of the occurrence). In terms of liability associated with damage the County may not be able to adhere to the same standard of risk that is typical, however the mitigation of damages are reduced. Each business is required to provide insurance to the municipality prior to receiving their original patio permit. Upon Council approval, staff will ensure each Certificate of Insurance (COI) previously submitted by the business extends to January 1, 2021. If expiring on October 31, 2020, staff will reach out to the businesses to request an updated COI for the extended season.

No additional program changes are being proposed outside of extending the patio season. A business that wishes to participate in the patio extension on municipal property must ensure it is in conformity with all County/Provincial/Federal by-laws and legislation (i.e. property standards, zoning by-laws, noise by-law, compliance with the *Accessibility for Ontarians with Disabilities Act*, official plan, etc.). Further, it is still the responsibility of the Applicant to meet all licensing requirements that would normally be mandatory to operate the establishment, including the Health Unit and Alcohol and Gaming Commission of Ontario permits. To review requirements of the program please see (Attachment 1).

Feedback from current permit holders suggest there is interest to expand the current patio season, as two of the three permit holders would be receptive to this. The third permit holder was not interested in expanding the season as they did not install the patio they were issued a permit for and do not plan on doing so this year. One concern was received from an existing permit holder regarding whether Haldimand County would require their snow removal contractor to have liability insurance that names the County as additionally insured. Legal and Support services provided input advising that as the snow removal contract would be with the business, the County is therefore, not party to the contract and as a result is not able to require that the contractor name Haldimand County as additionally insured.

Staff are recommending that Council extend the Seasonal Sidewalk and On-Street Patio Program season until establishments are able to return to full operational capacity or until January 1, 2021. Extending the patio season has a direct benefit to local businesses as this will permit these establishments to host additional patrons during the pandemic, while maintaining social distancing requirements as laid out by the public health unit and the provincial government. The loss of outdoor space could potentially result in loss of revenue and a business's temporary or permanent closure; as such, staff are recommending the removal of this barrier during the pandemic. Haldimand County is one of several Ontario municipalities that are extending the 2020 patio program this season including Brant County, and The City of Toronto. Similar concerns have been raised by these municipalities and adequately addressed.

## **FINANCIAL/LEGAL IMPLICATIONS:**

From a financial perspective Roads Operations has raised concerns about surplus costs associated with snow removal around patios, as additional equipment may be required to clear these areas. This concern was addressed by confirming with the business owners that they would be required to take an active role in assisting with snow clearing adjacent and surrounding their patios.

## **STAKEHOLDER IMPACTS:**

Municipal staff across several divisions including Legal & Support Services, Engineering Services, Planning and Development, Roads Operations, Emergency Services, Building & Municipal Enforcement Services, and Water & Wastewater Engineering & Compliance were consulted on expanding the current patio season, and their concerns have been addressed.

Local business organizations have been informed of changes being proposed to the program and these were received positively by all organizations. These organizations will continue to be consulted on any proposed changes to the program.

## **REPORT IMPACTS:**

Agreement: No

By-law: No

Budget Amendment: No

Policy: No

## **ATTACHMENTS:**

1. Seasonal Sidewalk and On-Street Patio Program Guidelines.
2. Seasonal Sidewalk and On-Street Patio Program Permit.