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# HALDIMAND COUNTY

## Report EDT-03-2021 Seasonal Sidewalk and On-Street Patio Program Installation Period Extension 2021



For Consideration by Council in Committee on February 9, 2021

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### OBJECTIVE:

To extend the Seasonal Sidewalk and On-Street Patio Program for the 2021 season as a result of ongoing COVID-19 restrictions.

### RECOMMENDATIONS:

1. THAT Report EDT-03-2021 Seasonal Sidewalk and On-Street Patio Program Installation Period Extension 2021 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 from March 15, 2021 to January 1, 2022 at 12:00 a.m. or until establishments are able to return to full operational capacity, 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-03-2021.

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

**Respectfully submitted:** Mike Evers, MCIP, RPP, BES, General Manager of Community & Development Services

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

### EXECUTIVE SUMMARY:

In July 2020, staff received feedback from Seasonal Sidewalk and On-Street Patio permit holders wishing to extend their patio season due to COVID-19 restrictions. In October of 2020, Council approved this request and extended the end date of this program from October 31, 2020 to January 1, 2021.

In late 2020, staff received an additional inquiry regarding extending both the start and end date of this program in order for food and drink establishments to retain additional outdoor seating as a result of the ongoing COVID-19 restrictions in place. This report seeks to accommodate that need by extending the program's start and end dates to March 15, 2021 and January 1, 2022 respectively, or until establishments are able to return to full operational capacity, whichever comes first. County staff in various operational divisions have reviewed this request and are supportive.

## **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.

In September 2020, staff received feedback from permit holders wishing to extend their patio season due to COVID-19 restrictions. In October of 2020, a report was approved by Council to extend the Seasonal Sidewalk and On-Street Patio Program period from October 31, 2020 to January 1, 2021. One permit holder took advantage of this program in 2020 and extended the installation period for their patio into December 2020.

As COVID-19 restrictions continue into 2021 and food and drink establishments remain unable to return to full operational capacity, business owners have begun to approach staff to request the 2021 patio season be extended beyond the regular timeframe of May 1 to October 31. Proactively, staff are recommending the 2021 patio season run from March 15, 2021 through to January 1, 2022 or until establishments are able to return to full operational capacity, whichever comes first.

In addition to the Seasonal Sidewalk and On-Street Patio program on public property, staff also initiated a private patio program in 2020 to support the restaurant sector through COVID-19 restrictions. This program permitted establishments to open a seasonal patio on private property without proceeding through the planning approval process. Restaurants and establishments wishing to install a patio on private property submitted an application (similar to the public property Seasonal Sidewalk and On-Street Patio program) that was reviewed by staff from Building and Municipal Enforcement Services, Planning and Development, Emergency Services and Economic Development and Tourism. A total of 14 patios were installed in 2020 as a result. Should provincial restrictions remain in place for the food and drink sector, it is staff's intent to provide the same exemption for private patios in 2021 from March 15, 2021 through to January 1, 2022 (or when the provincial restrictions permit restaurants to allow for outdoor seating).

## **ANALYSIS:**

In Fall 2020, staff received an inquiry from a local business requesting consideration to expand the patio season in 2021. Food and drink establishments have been significantly impacted by the COVID-19 pandemic since March 2020 with restrictions implemented that allowed for take-out only and a significant reduction in seating capacity when allowed. Extending the 2021 patio season will support businesses in allowing them to serve additional customers than what may be acceptable indoors throughout 2021 when permitted to do so. In December 2020, staff began to review the feasibility of expanding the program's season with internal staff from various divisions.

All issues associated with extending the seasonal sidewalk and on-street patio operating period were addressed in Report EDT-12-2020 Seasonal Sidewalk and On-Street Patio Program Installation Period Extension. One new issue was raised by Emergency Services requesting that once a concept plan and building materials are approved by Haldimand County, no alterations should be made to these plans by the business owner without further consultation with staff. This pertains particularly to barriers directing the public from the sidewalk to safe zone walkways. Moving forward, staff will include this as a condition in our program guidelines to ensure that businesses are aware that no changes can be made to the structural integrity of the patio or barriers without consultation with Haldimand County Staff.

The staff comments received previously during the preparation of report EDT-12-2020 Seasonal Sidewalk and On-Street Patio Program Installation Period Extension will still be applicable moving forward:

## Winter Control and Snow Removal

As previously determined, business owners will need 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.

## Installation of Heaters on Patio

If heaters are to be installed on patios, they will be required to meet Fire Code standards. This information will be included in the application. Applicants will be advised of Fire Code regulations for patio heaters and will be requested to reach out to Haldimand County's Fire Prevention Officers to discuss their plans to install heat and any type of tent structure.

## Liability as a Result of Regular Snow Removal by Haldimand County

The need to consider the liability associated with damage during the course of regular snow removal. As previously determined, 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.

No additional program changes are being proposed outside of extension of 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 - Seasonal Sidewalk and On-Street Patio Program Guideline 2021).

Staff are recommending that Council approve the extension of the Seasonal Sidewalk and On-Street Patio Program season from March 15, 2021 through January 1, 2022 or until establishments are able to return to full operational capacity. 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.

## **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 2021.
2. Seasonal Sidewalk Permit.