
HALDIMAND COUNTY

Report PDD-01-2022 Private Commercial Patio Program for 2022 For Consideration by Council in Committee on February 8, 2022



OBJECTIVE:

To seek Council approval to permit private commercial patios throughout 2022.

RECOMMENDATIONS:

1. THAT Report PDD-01-2022 Private Commercial Patio Program for 2022 be received;
2. AND THAT the proposal to permit seasonal patios on private commercial property on a temporary basis be approved for reasons outlined within Report PDD-01-2022;
3. AND THAT the Temporary Use By-law attached to Report PDD-01-2022 be presented for enactment;
4. AND THAT the proposal is deemed to be consistent with the Provincial Policy Statement, 2020, the Provincial Growth Plan 2020, and other matters of Provincial interest.

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Reviewed by: Shannon VanDalen, MCIP, RPP, CMMI, Manager of Planning & Development

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

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

EXECUTIVE SUMMARY:

Staff are proposing to implement a temporary use by-law to extend permissions for patios on private commercial properties for the 2022 season. This is an interim solution for 2022 which provides Council with the opportunity to delegate authority to the General Manager of Community & Development Services (GM CDS) to pass temporary use by-laws for this type of property function to expedite any approvals.

BACKGROUND:

The Province temporarily amended planning regulations in 2020 and 2021 to allow municipalities to permit patios on private property without the requirement to comply with local planning and building rules. This exemption does not exist in 2022, which has resulted in the need for Haldimand County to establish a by-law to permit the patios to continue.

ANALYSIS:

Staff are proposing to implement a temporary use by-law (Attachment 1) that would expire at the end of 2022 to once again permit seasonal (temporary) patios on private commercial properties. Private

property owners benefitted from a series of regulatory exemptions in the *Planning Act* in 2020 and 2021, put in place by the Province as part of its response to the pandemic that allowed for the patios to be established without any by-law changes (permanent or temporary). The Provincial regulations were rescinded on December 8, 2021, and with those exemptions no longer in effect, it is necessary to pass a temporary use by-law at the County level to ensure that the program can continue uninterrupted in 2022, in an effort to continue to support the local hospitality industry.

Permitting the patios through temporary use by-laws instead of a permanent Zoning By-law amendment, allows staff to analyze the program annually to determine if it is appropriate to continue and whether certain criteria should be added or removed.

The proposed temporary use by-law would permit patios in 2022 on private property without having to meet Zoning By-law requirements for parking, setbacks, etc. The patios would be permitted as an accessory use to bake shops and all types of restaurants. As the COVID-19 pandemic has continued to result in closures of indoor restaurant seating, it is staff's opinion that patios should be permitted throughout 2022 with the increased flexibility provided by exempting parking requirements, etc. in order to assist small businesses through this difficult time.

Zoning is one of several matters that are required to be addressed by those wishing to establish a patio. The Haldimand County Building & Municipal Enforcement Division (BME) and the Alcohol and Gaming Commission of Ontario (AGCO) have requirements as well. The AGCO has enacted a temporary patio policy, which allows for the physical extension of liquor licensed premises without having to apply, until January 1, 2023. These policies are likely to change in the future, and this should be taken into account by restaurant owners as they make future plans, including the potential of establishing permanent facilities (e.g. fences, shade structures, etc.). Compliance with the Haldimand County Fence By-law is required for temporary patios, as well as future permanent patios.

Potential impacts on neighbouring property owners (both residential and commercial) can be mitigated through the temporary use by-law as well as through the permitting process. For example, entertainment such as musical performers will only be permitted as part of a larger community event, or through a clearance letter from the General Manager of Community and Development Services upon certain criteria being met (e.g. hours of operation, decibel levels, and stage/speaker set-up). Any other relevant conditions can be included in the permit as well.

Future Considerations:

Bill 13, *Supporting People and Businesses Act*, 2021 received Royal Assent on December 2, 2021. This Act will allow municipalities to delegate more duties to staff in terms of being able to approve minor planning matters. Staff will be proposing policies in the Official Plan that would allow temporary use by-laws to be delegated for approval to the GM CDS. The likely path going forward is that the GM CDS would approve a temporary use by-law for patios on an annual basis, or other timeframe, subject to specific criteria. As the Official Plan policies that would allow this are not yet approved or in effect, staff are bringing forward a temporary use by-law for 2022 for Council approval. It would effectively extend the patio program in its current form to cover the 2022 year.

FINANCIAL/LEGAL IMPLICATIONS:

Not applicable.

STAKEHOLDER IMPACTS:

Haldimand County has permitted private patios to be exempt from most requirements throughout the COVID-19 pandemic to help support the local hospitality industry, which has been hard-hit by

restrictions on indoor dining. The program will continue through 2022 to support local business and add to the vitality of local communities.

Building & Municipal Enforcement (BME) staff note that under the *Building Code* a permanent patio introduces additional seating that has to be factored into washroom provisions. All applicants of the program (i.e. in years 2020 and 2021) were advised of such and will continue to be advised of this should they be considering constructing a more permanent patio solution in future. The end result—of constructing a permanent patio—could be the need to add additional washroom space/fixtures. These requirements would be determined prior to any owner advancing with permanent construction plans.

REPORT IMPACTS:

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Draft By-law.