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# HALDIMAND COUNTY

## Report EDT-03-2023 Seasonal Sidewalk and On-Street Patio Program Update 2023



For Consideration by Council in Committee on March 21, 2023

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### OBJECTIVE:

To extend the Seasonal Sidewalk and On-Street Patio Program on a permanent basis from April 1<sup>st</sup> – November 30<sup>th</sup> annually. This aligns with new Alcohol and Gaming Commission of Ontario permissions which designated the authority to municipalities to approve temporary patios for up to eight months total in a calendar year.

### RECOMMENDATIONS:

1. THAT Report EDT-03-2023 Seasonal Sidewalk and On-Street Patio Program Update 2023 be received;
2. AND THAT an extension of the Seasonal Sidewalk and On-Street Patio Program from April 1<sup>st</sup> – November 30<sup>th</sup> be approved to align with the new Alcohol and Gaming Commission of Ontario permissions which designate the authority to approve temporary patios for up to eight months in a calendar year to municipalities.

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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:

Staff are proposing to extend the seasonal sidewalk and on-street patio program on a permanent basis to align with new Alcohol and Gaming Commission of Ontario (AGCO) Permissions. Effective January 1, 2023 the AGCO established a new framework for temporary outdoor patios, which transferred the authority to municipalities to approve temporary patios for up to eight months total in a calendar year. Currently, our seasonal sidewalk and on-street patio program permits patios to operate from May 1<sup>st</sup> to October 30<sup>th</sup> annually. If approved, patio permissions would be extended from April 1<sup>st</sup> to November 30<sup>th</sup> each year. Doing so will also align with the permissions extended to patios on private commercial properties through updates to the Comprehensive Zoning By-Law as outlined in report PDD-05-2023 presented at the (March 21, 2023 CIC meeting). 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 fall 2020, staff received feedback from permit holders wishing to extend their patio season due to COVID-19 restrictions limiting seating capacity at their establishments. In October 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. As COVID-19 restrictions continued into 2021 and 2022 and food and drink establishments remained unable to return to full operational capacity, business owners once again approached staff to request the 2021 and 2022 patio season be extended beyond the permitted timeframe of May 1 to October 31. In response, staff recommended the season run from March 15, through to January 1, which was approved by Council both years and have operated without issue.

Since restrictions for food and drink establishments have lifted, staff have received several inquiries from past patio permit holders about the feasibility of extending the season on a permanent basis, as no significant issues were raised during the 2021 and 2022 seasons. Many patio owners also noted the positive impact patios had on their establishment and their ability to seat more patrons and offer an outdoor dining option that guests are seeking. In 2022, 7 public patios were approved adding 128 seats to the hospitality sector in Haldimand County. With new permissions recently announced by the AGCO that give authority to the municipality to approve temporary patios for up to eight months, staff are recommending the season run from April 1<sup>st</sup> to November 30<sup>th</sup> on a go forward basis to align with the new framework. No other changes are being proposed to the guidelines.

## **ANALYSIS:**

Staff are recommending the seasonal sidewalk and on-street patio program be extended permanently from April 1<sup>st</sup> to November 30<sup>th</sup>. This will mirror the permissions extended to patios on private commercial properties via updates to the Comprehensive Zoning By-Law as outlined in report PDD-05-2023 which is also being presented for Council's consideration at the March 21, 2023 CIC meeting. No other changes are being proposed to the guidelines. Staff have already received requests from food and drink establishments regarding early installations and this proposed revision to the guidelines would align with what those applicants are seeking.

The extended period of operation would reach into the 'shoulder seasons' (spring/fall), which can lead to additional operational requirements such as heating and snow clearing or greater likelihood of conflicts with capital construction projects. These, and other requirements, were previously identified by staff and remain applicable as follows:

### 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. This requirement has been met by participants in the program the last number of years with no issues.

### Installation of Heaters on Patio

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

### Concept Plans and Building Materials

Emergency Services have requested 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. Staff included this as a condition in our program guidelines in 2021 (and it continues to this day/moving forward) 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.

### 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 is also paramount. 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 is reduced. Each business is required to provide insurance to the municipality prior to receiving their annual patio permit.

### Capital Projects in Downtowns

Engineering Services has identified the potential for capital projects that may impact the ability to install a business's patio in a given year. Economic Development and Tourism will work with Engineering Services to identify where work is scheduled on an annual basis and if construction conflicts with a proposed patio, the business owner will be notified. Potential solutions include the business's patio may not be approved for the identified year or their season may be shortened depending on the nature of work being proposed.

### Additional Comments

No additional program changes are being proposed outside of the extension of the patio season. A business that wishes to participate in the public patio program on municipal property must ensure it is in conformity with all County/Provincial/Federal by-laws and legislation (i.e. Property Standards By-law, Zoning By-law, Noise By-law, the Official Plan, and compliance with the *Accessibility for Ontarians with Disabilities Act*, 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 notifying the Alcohol and Gaming Commission of Ontario of the municipal approval they have received. To review requirements of the program please see (Attachment 1 - Seasonal Sidewalk and On-Street Patio Program Guidelines 2023).

Staff are recommending the seasonal sidewalk and on-street patio program be extended permanently from April 1<sup>st</sup> to November 30<sup>th</sup>. Extending the patio season has a direct benefit to local businesses as additional seating will further support these businesses that have been significantly impacted by COVID-19 restrictions over the past three years and are continuing to recoup revenue lost during this period. The additional outdoor space results in additional patrons and revenue for businesses. From a downtown revitalization and tourism perspective, outdoor patios can act as an attraction tool and help elevate an area as a destination for tourists. Also, in many cases patios help in attracting new dining and entertainment patrons to the downtown areas in the County, and contribute to making a downtown vibrant and robust. Moving forward in this direction will also align public patios with permissions being extended to private patios. Additionally, staff are recommending these changes in order to align with the framework and the best practises identified by the AGCO which recommends patios be open for up to 8 months per year.

## **FINANCIAL/LEGAL IMPLICATIONS:**

Not applicable.

## **STAKEHOLDER IMPACTS:**

Municipal staff across several divisions including Clerks, Legal & Support Services, Engineering Services, Planning and Development, Roads Operations, Emergency Services, and Building & Municipal Enforcement Services, 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 no concerns were raised. Staff also connected with past patio permit holders, and the proponents are supportive of this direction and have advised their preferred season for operation is from April 1<sup>st</sup> to November 30<sup>th</sup>. 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

## **REFERENCES:**

None.

## **ATTACHMENTS:**

1. Seasonal Sidewalk and On-Street Patio Program Guidelines 2023.
2. Seasonal Sidewalk Permit 2023.
3. Approved Physical Extension for AGCO.