

Meeting date: July 20, 2020
Department: Building, By-law, Planning & Waste Services
Report No.: BBP-2020-58
Submitted by: Matthew Stephenson, Director of Building, Planning & Waste Services
Approved by: Fred W. Tranquilli, Chief Administrative Officer | Clerk
SUBJECT: **Portable Outdoor Patios**

RECOMMENDATION: THAT:

- 1. Guidelines for temporary patios installed on private property as set out in Attachment 1 “Strathroy-Caradoc COVID-19 Temporary Outdoor Patios on Private Property - Guidelines” be adopted for the period up to January 1, 2021.**
- 2. Economic Development department be authorized to solicit pricing and supply timelines in partnership with the Strathroy BIA from suppliers of pre-fabricated ramps and barriers that meet all required engineering and safety specifications. The Municipality require interested businesses to enter into an Encroachment Agreement prior to establishing patios on municipal lands. Benefiting businesses shall bear the cost of walkways, ramps and barriers.**
- 3. The Chief Administrative Officer be authorized to enter into patio encroachment agreements with any business that submits an Expression of Interest and meets the criteria for a patio extension onto public property, as outlined in this report or as determined by the CAO.**
- 4. As required by amendments to Regulation 719 under the Liquor License Act, Council for the Municipality of Strathroy-Caradoc supports the extension of existing liquor licenses to temporary patios on private property throughout Strathroy-Caradoc for the duration of 2020, provided businesses comply with the Strathroy-Caradoc COVID-19 Temporary Outdoor Patios on Private Property - Guidelines.**

BACKGROUND

The intent of this report is to support businesses in the hospitality sector through what may prove to be lasting changes to how restaurants and licensed bars and establishments operate and serve clients post COVID-19. Under orders to remain closed to both dine-in and patio service, many restaurants have responded by offering take-out or delivery services. As re-opening dates move

closer, and current phase two approvals permit outdoor patios the sector is looking at how best to welcome back and safely service in-house diners at restaurants and customers of licensed bars in a post-COVID 19 world. The intent of the Municipality of Strathroy-Caradoc, therefore is to introduce a temporary patio process that is as streamlined as possible with minimal fees while adhering to all health, building and safety guidelines and other regulations.

COMMENTS

Guidelines for sector re-opening

The Government of Ontario permitted the opening of outdoor dine-in services on patios commencing June 12, 2020 at 12:01 AM in communities permitted to move into Stage Two. Strathroy-Caradoc is one such approved community. Stage Three openings are scheduled to proceed July 17, 2020.

Based on guidance issued for Ontario's restaurant and food services sector and by some of provincial governments, cleaning and spacing/distancing protocols are key compliance requirements. Against this backdrop, COVID-19 screening tests, sanitization stations and extra cleaning as well as PPE for staff will be requirements and additional information is available from the Middlesex-London Health Unit. The new compliance requirements add cost to business operations. Further, the ability to offer and maintain physical distancing of at least 2 metres between seated customers (both at and between tables) by altering seating configurations and floor plans will be essential. The costs associated with implementing physical distancing measures result in a reduced seating capacity within existing building envelopes and will negatively impact revenue generation abilities of businesses.

Seating reconfigurations to allow two metres of table separation and altering customer movement flows to keep seated diners away from entering/exiting customers all require planning and ingenuity on the part of businesses. A solution to distancing requirements includes extending outdoor patio space to allow for greater table separation and to better manage customer movement within a space, and is a measure that has been successfully adopted around the world and across Canada.

A range of restaurants and licensed establishments across the community were consulted by Economic Development regarding their desire for expanded patio and outdoor space in 2020. The response was positive.

Requirements for extending outdoor patio space

Options for extending outdoor space are temporary/seasonal patio installations which extend dining/licensed bar space are with specific requirements.

Extending temporary outdoor patio seating space can occur in a variety of ways. Temporary patio installations on privately owned property are relatively easy to action compared to patios on municipally owned property. Main Street locations present a challenge since the properties usually do not have their own parking facility. Businesses have asked for consideration to allow temporary "pop up patios" on municipal sidewalks. The challenges with allowing restaurants to create patios on sidewalks include accommodating pedestrians which can create conflicts with maintenance of underground infrastructure, and potential hazards to drivers and pedestrians. Sidewalks in Strathroy-

Caradoc's downtown are not sufficiently wide so as to allow for both patio seating on the sidewalk and accessible pedestrian thoroughfares. In some cases, the need will arise to either create a temporary sidewalk by deploying a wooden boardwalk through an on-street parking stall or to shut down parking stalls on-street, these options have worked in other communities in Ontario. Temporary accessible boardwalks can be expensive and need to be well-designed and built if they are to co-exist with vehicular traffic. These options may not be acceptable to businesses requiring parking spaces.

The installation of a patio is controlled by the owner of the property on which the temporary patio will be located;

1. To extend or add an outdoor patio space the owner would likely remove some parking spaces to install additional seating and would ensure that the patio is constructed in accordance with all prevailing guidelines and regulations. Further, all AGCO licensing requirements must be adhered to. The municipality wishes to support economic recovery in Strathroy-Caradoc and allow businesses to open as soon as possible. Administration is recommending Strathroy-Caradoc COVID-19 Temporary Outdoor Patios on Private Property - Guidelines and is recommending that the municipality require application, submission of drawings but no fee payments. This should ensure a streamlined process for businesses to reopen.

Purpose

To facilitate and expedite the process for permitting temporary patios on private property.

Administration has developed "Strathroy-Caradoc COVID-19 Temporary Outdoor Patios on Private Property - Guidelines" (Attachment 1) and recommends that these be adopted for the period up to January 1, 2021. These guidelines may be adjusted for subsequent seasons and a further report will be brought forward in Q3 of 2021.

Patios on municipal property – the land on which the planned patio is located is municipally-owned and usage would be allowed via individual encroachment agreements. In this circumstance, municipally owned property would include;

Sidewalk

The business owner would seek to place patio seating on a municipally-owned side-walk. In so doing, the right of way for pedestrians would be altered, requiring their displacement onto a newly erected, temporary pedestrian walkway. The pedestrian walkway would encroach on existing parking spaces and would thus be located adjacent to the road with pedestrians separated from vehicular traffic by a safety barrier.

Restaurants and bars would be permitted to expand their patio onto the side-walk. To ensure safe and accessible travel for pedestrians, the Municipality would close parking spaces immediately adjacent to the patio, accessible ramps would be built that allow pedestrians to get to and from the sidewalk into the closed parking spaces and erect safety barriers to separate the closed parking spaces from cars traveling on the street. The actual cost of the ramps and barriers would be split on a pro-rata basis among the interested businesses and the BIA.

The following steps would be taken;

- Expression of Interest
- Municipal screening, if guidelines are met moves to next phase.
- Encroachment agreements entered into with interested businesses, with authority delegated to the Chief Administrative Officer
- Installation of walkways, ramps, and barriers and issue invoices to businesses
- Business owners retain responsibility for maintenance of the patio and adherence to all laws (e.g. AGCO liquor licensing)
- A patio may need to be moved in the future for access to utilities, if posing a danger, or in the event of an emergency

Parking lot/space

To facilitate a patio extension, the business owner would typically seek to place a patio on a municipally-owned roadway. In so doing, parking spaces would be removed, patio users would be seated adjacent to (but separated by a barrier) vehicular traffic, and servers would traverse sidewalks to serve patrons.

An expression of Interest process was followed to determine the demand from businesses in Strathroy-Caradoc to establish Temporary Outdoor Patios located on municipal property. Four businesses expressed interest in undertaking the installation of an outdoor patio.

Restaurants and bars will be permitted to expand their patio onto the on-street parking stalls. To ensure safe and accessible travel for motorists, the Municipality will close parking spaces immediately adjacent to the patio. A contractor is delivering the patios which will be erected at sidewalk grade and safety barriers installed to separate the closed parking spaces from cars traveling on the street. The actual cost of the patio, ramps and barriers would be split on a pro-rata basis among the interested businesses and the BIA.

The following steps are components of the process:

- Expression of Interest
- Municipal screening, if guidelines are met moves to next phase.
- Encroachment agreements entered into with interested businesses, with authority delegated to the Chief Administrative Officer
- Contractors would install walkways, ramps, and barriers and issue invoices to businesses
- Installation and business use of the patio

- Business owners retain responsibility for maintenance of the patio and adherence to all laws (e.g. AGCO liquor licensing)
- A patio may need to be moved in the future for access to utilities, if posing a danger, or in the event of an emergency

Liquor license extensions

The Alcohol and Gaming Commission of Ontario (AGCO) has recently allowed licensees to extend the licensed portion of the business to outdoor patios. Ontario has amended Regulation 719 under the Liquor Licence Act by providing flexibility for liquor sales licensees (e.g., licensed bars and restaurants) to temporarily extend their physical premises provided there is municipal approval to do so and that certain requirements are met.

In order to be eligible for a temporary patio extension, licensees must have a valid liquor sales license and be permitted to open and welcome patrons on-site under the province's phased reopening process. In addition, the following requirements must be met:

1. The physical extension of the premises is adjacent to the premises to which the license to sell liquor applies;
2. The municipality in which the premises is situated has indicated it does not object to an extension;
3. The licensee is able to demonstrate sufficient control over the physical extension of the premises;
4. There is no condition on the liquor sales license prohibiting a patio; and,
5. The capacity of any new patio, or extended patio space where the licensee has an existing licensed patio, does not exceed 1.11 square meters per person.

To minimize the administrative burden for licensees, those who meet the above criteria are not required to apply to the AGCO or pay a fee to temporarily extend their patio or add a temporary new licensed patio.

Patios - beyond 2020

The actions and measures outlined in this report are targeted to supporting economic recovery in the wake of the COVID-19 pandemic and support the implementation of temporary outdoor patios in Strathroy-Caradoc in 2020. Beyond 2020, if there is demand from the business community to make outdoor patio options on public and/or private property a more permanent feature of the Strathroy-Caradoc landscape, zoning regulations and bylaws will require review and amendment. A report would be brought back to Council for review and approval, if needed, at that time.

CONSULTATION

Businesses were consulted to determine interest levels in extending temporary patio spaces. The Strathroy BIA was consulted to solicit feedback on the desire to offer patio spaces.

FINANCIAL IMPLICATIONS

There are no financial implications resulting from the recommendations. If demand for temporary sidewalk patios on municipal property warrants the purchase and installation of walkways, ramps and barriers, costs (materials, labour, administration and any ongoing maintenance costs) will be recouped from each business requesting a temporary patio in partnership with the Strathroy BIA.

ATTACHMENTS

- STRATHROY-CARADOC COVID-19 TEMPORARY OUTDOOR PATIOS ON PRIVATE PROPERTY GUIDELINES

STRATHROY-CARADOC COVID-19 TEMPORARY OUTDOOR PATIOS ON PRIVATE PROPERTY GUIDELINES

On June 8, 2020, the Ontario Government announced the gradually reopening of businesses, services and public spaces as progress is made in the fight against COVID-19. Certain Public health unit regions, including the Middlesex-London Public Health Unit, are allowed to move into Stage 2 of the reopening. As part of the reopening, restaurants, bars, food trucks and other food and drink establishments (e.g., wineries, breweries and distilleries) can open for dining in outdoor areas only, such as patios, curbside, parking lots and adjacent premises effective June 12, 2020 at 12:01 a.m.

In order to help facilitate this reopening for businesses in Strathroy-Caradoc, the following is a series of guidelines to follow for the establishment of Temporary Outdoor Patios on Private Property only to ensure public health and safety is maintained.

1. Temporary patios shall only be permitted for existing restaurants, bars, food trucks and other food and drink establishments.
2. Existing and temporary patios must adhere to all provincial and local public health guidelines related to COVID-19, including the arrangement of tables and chairs on the patio.
3. Temporary patios permitted under this guideline shall extend no later than January 1, 2021; however, the Municipality may terminate these permissions upon 24 hours' notice.
4. The business owner is responsible for obtaining all relevant permissions, including but not limited to the AGCO and their landlord.
5. Required on-site parking may be used for a temporary patio. The required number of designated Accessible Parking Spaces must remain available for parking use and designated fire routes and sight triangles must be avoided. A reasonable number of standard parking spaces should be maintained to serve patrons.
6. Accessibility must be maintained to, and throughout, the temporary patio.
7. Temporary patios must not extend in front of adjacent tenant spaces, exits, or beyond business frontage without written permission from affected adjacent property owners and tenants; this includes any overhanging elements.
8. Umbrellas must stand at least 2.1m (7ft) above the walking surface.
9. Temporary patios must be open to the air.
10. Platforms, decks, stages and portable toilets are not permitted. Optional temporary patio perimeter fencing, planters, or barriers approximately 1.2m (4ft) high are permitted, provided they are secured without endangering any underground utilities.
11. A solid barrier approximately 1.2m (4ft) high shall be installed where a patio is adjacent to any vehicle movement areas.

12. Cooking of food and drink preparation is not permitted on temporary patios.
13. A minimum 1.5m (5ft) clearance from fire department (siamese) connections and hydrants must be maintained on a temporary patio.
14. A fire extinguisher (minimum 2A-10BC) must be available within 15.2 m (50ft) of any part of the temporary patio.
15. CSA-certified electric or propane patio heaters (with max 20lb tank) are permitted where located at least 3m (10ft) away from tree branches, operated per the manufacturer's directions and not stored on the road right-of-way when not in use. Solid-, gel- or liquid-fuel fire features are not permitted.
16. For non-licensed establishments, the capacity of the temporary patio shall not exceed the posted occupancy of the main building.
17. For licensed establishments that do not have an existing licensed patio, the capacity of the temporary patio shall not exceed the posted occupancy of the indoor area indicated on your liquor license or 1.11 sq. m. (12.0 sq. ft.) per person, whichever is the lessor.
18. For licensed establishments that have an existing licensed patio, the capacity of the combined area of the existing and temporary patios shall not exceed the posted occupancy of the indoor area indicated on your liquor license or 1.11 sq. m. (12.0 sq. ft.) per person, whichever is the lessor.
19. Owners shall provide their liquor license, if requested by the Chief Building Official or his designate.
20. The Chief Building Official or his designate is authorized to inspect all temporary patios and require adjustments to the patio in order to address compliance with these Guidelines.