

Staff Report



To	City Council
Service Area	Infrastructure, Development and Enterprise Services
Date	Wednesday, June 17, 2020
Subject	Guelph's Temporary Seasonal Patio Program

Recommendations

1. That the Temporary Seasonal Patio Program as described in 2020-74 be approved.
2. That for the period from June 12, 2020 to November 1, 2020, staff are directed to temporarily suspend enforcement of such provisions of the Zoning By-law (1995)-14864 which conflict with Provincial Directives with respect to licensed outdoor dining capacity and the establishment of temporary outdoor dining premises, and in particular to suspend enforcement of:
 - a) restrictions for licensed capacity of outdoor commercial patios in section 4.17.1 which are more restrictive than the temporary Provincial requirement of 1.11 square metres per person; and
 - b) restrictions in required parking numbers in section 4.13.4 of the Zoning By-law in connection with a an establishment which has an approved application for a Temporary Patio, and which are operated in conformity with all applicable laws, including the Temporary City of Guelph Guidelines for outdoor patios and all other relevant Zoning By-law requirements.
3. That the temporary suspension of enforcement of Zoning By-law (1995)-14864 as outlined above shall be strictly time-limited and shall not be interpreted as an authorization for any Temporary Outdoor Patio which is operated beyond these limited timelines or which operates in contravention of any other applicable law and/or of the Temporary Patio Guidelines established by the City.
4. That operation of a permitted Temporary Outdoor Patio between June 12, 2020 and November 1, 2020 pursuant to this Resolution does not permit the continued use of the land, buildings and/or structures for the purpose temporarily authorized, establish a legal non-conforming use, or entitle any person to an exemption from the Zoning By-Law beyond November 1, 2020.
5. That staff be directed that any fee associated with the approval of applications in connection with the City of Guelph's Temporary Patio Pilot Program including, but not limited to, fees listed in the User Fee By-law (2019) – 20460, be waived until October 31, 2020.
6. That the Chief Administration Officer, or designate, be delegated authority until October 31, 2020, to implement, administer and revise any City Council approved form, guideline or requirement associated with the City of Guelph's Temporary Patio Pilot Program, including any modifications which may be

necessary to the forms prescribed in connection with Commercial Patio Premises by the City Lands Encroachment By-law (2009) 18799.

7. That staff shall be directed to conduct further consultations with the community and to prepare a draft temporary use by-law as authorized under section 39 of the Planning Act in connection with this Resolution, and shall schedule a public meeting in connection therewith as soon as practical.

Executive Summary

Purpose of Report

To provide Council with an overview of Guelph's Temporary Patio Program and seek direction on implementation related to bylaw amendments, delegated authority, and fees.

Key Findings

The new Temporary Seasonal Patio Program pilot is intended to support local restaurants and other establishments throughout Guelph accommodate more dine-in patrons on temporary patios while complying with health and safety measures during the COVID-19 pandemic.

Through the program, staff will evaluate applications case-by-case and as unique requests arise, allow for as much flexibility as possible within legal constraints. It will continue to evolve and be refined based on user feedback and further consultation with stakeholders including the Downtown Guelph Business Association.

In an effort to quickly accommodate patios this season, the program's scope is limited. Staff will however explore other public space options including on-street and in City parking lots, which require more lengthy processes to change bylaws.

The 2020 program is to serve as a pilot, with the intention that the program will continue for the next three years and be reviewed by staff annually.

The program was announced by the City on June 11 and the electronic application process started on June 12 to allow for the immediate opening of compliant temporary seasonal patios.

Financial Implications

The intent of this program is to support Guelph restaurants' ability to generate income, as part of the city's economic recovery from COVID-19. To that end, staff recommends waiving the program fees in 2020. The estimated loss of revenue from waiving fees is approximately \$10,000.

Report

City staff have rolled out a new program for Guelph restaurants and other licensed establishments to temporarily extend an existing patio or put in place a new temporary patio on private and public space to accommodate more patrons while maintaining physical distancing requirements as part of the provincial reopening.

The province announced on June 8, 2020 that it was easing restrictions in communities where it was safe to do so, as part of Stage 2 of its reopening

framework. This permits some Guelph businesses and services to reopen with health and safety measures in place, including outdoor dine-in services at restaurants, bars and other establishments including patios, curbside, parking lots and adjacent properties, effective June 12, 2020.

In response, the City's program was announced on June 11, 2020 and the electronic application process opened on Friday, June 12, 2020 as an interim step through the CAO's delegated authority.

A number of municipalities have had similar programs in place for a number years, which afforded the time to:

- Consult and engage the community
- Adequately resource
- Test and refine processes
- Pursue extensive bylaw changes

In the absence of time, the City's new program was developed through collaborative, cross-departmental efforts that prioritize: public safety, timeliness, and short-term amendments to bylaws that conflict with the intention of the program. It builds on other municipalities' more established programs that are replicable in Guelph. Not all municipalities' bylaws are identical and therefore what's done in one is not necessarily possible in another.

Program Details

Eligibility - Licensed establishments, including arenas, clubs, public halls, recreation centres, restaurants, and taverns that sell food and/or serve liquor are eligible, whereas special occasion permit establishments are not.

Proximity – Temporary patios are permitted if located directly or in close proximity to the front of the business.

End date – Temporary patios for the 2020 season are permitted until October 31 and must be removed by November 1.

Permissions – Business owners are responsible for obtaining all relevant permissions (e.g. the AGCO, landlord) and mitigating negative impacts.

Space options to expand – Private and public property, except on-street parking spots and City parking lots.

Other program details of note:

- Temporary patios can extend in front of adjacent tenant spaces if written permission is provided.
- Patios must comply with the Accessibility for Ontarians with Disabilities Act and Ontario Fire Code.
- Perimeter fencing, planters, or barriers can be used, if they do not damage any public property, and are secured without interfering with underground utilities.
- Decks or platforms can be constructed, however, they require a building permit.
- A clear path for pedestrians is to be maintained.

More details are available in attachment 1: the design guidelines document.

Initial Requirements and Process

Applicants are required to provide contact and seating capacity information, a proposed patio layout based on the program guidelines, certificate of liability insurance, and copy of existing liquor license. Once completed and submitted through the electronic application form, applicants can immediately establish their temporary expanded patio or new temporary patio on private or City-property, provided it complies with the design guidelines.

City staff will contact business owners within three business days to review the application and discuss any further requirements. Staff will be as flexible as possible, reviewing each application case-by-case.

City staff administering the program will look for opportunities to streamline the process and make it more efficient over time.

Permanent versus Temporary Patios

This new program is designed for new temporary patios and temporary patio expansions. The City has in place an existing process for permanent patios administered by Building Services.

Encroachment

The City Lands Encroachment By-law (2009)-18799 provides the mechanism for applicants to apply for the approval of permanent commercial patios located on City-owned land, primarily within the downtown core. Approved applicants are granted, by way of a license agreement, the use of a commercial patio for a period of 10 years, subject to the associated fees outlined in the User Fee By-law.

With the implementation of Guelph's Temporary Seasonal Patio Program, the fees normally associated with the long-term use of commercial patios are proposed to be waived to support the economic recovery from COVID-19. Whereas, the fees for long-term patio use will continue to be applicable to those who apply for the standard commercial patio with a ten-year duration.

Zoning

The City's Zoning By-law (1995)-14864 contains regulations for outdoor patios that limit the licensed capacity as well as require physical separation from parking spaces and drive aisles on private property. Temporary use by-laws are an option available to amend the By-law within the scope allowed in the Planning Act. It is recommended that staff prepare a draft temporary use bylaw under Section 39 of the Planning Act to permit the temporary expansion of existing and new outdoor patios in association with the City's Temporary Seasonal Patio Program. This process includes community consultation with required public notice of a statutory public meeting that will be scheduled as soon as practical.

Addressing Program Limitations

This program provides a streamlined application process for businesses and financial relief by waiving municipal fees related to new temporary patios and expanding temporary patios.

Given the immediacy to put this program in place and the limiting legislative factors, temporary on-street and parking lot patios in the public right of way cannot be permitted at this time.

Longer-term options will allow the City to explore establishing seasonal pop-up patios at greater capacity that use public rights of way. As has been done in other municipalities, this will require planning reports and public participation, which is not possible today given the need to have the program in place now.

Specific to downtown, City staff are interested in pursuing additional opportunities to create seating space by temporarily closing roadways for short durations (i.e. some weekends and statutory holidays) and will continue to engage with the DGBA and downtown businesses to explore options.

Financial Implications

The intent of this program is to support Guelph restaurants' ability to generate income, as part of the city's economic recovery from COVID-19. To that end, staff recommends waiving the program fees in 2020. The estimated loss of revenue from waiving fees is approximately \$10,000.

The fees for long-term patio use will continue to be applicable to those who apply for the standard commercial patio with a ten-year duration.

Consultations

The internal project team members are as follows:

- Rino Dal Bello, Program Manager, Downtown Renewal
- Doug Godfrey, General Manager, Operations
- Chris DeVriendt, Acting General Manager, Planning and Building Services
- Pat Sheehy, Program Manager, Zoning
- Jeremy Laur, Chief Building Official
- Greg Bernardi, Realty Specialist
- Allison Thornton, Associate Solicitor

External consultation has been limited given the time constraints to develop and implement the new program, however staff did ensure the Downtown Guelph Business Association provided initial input on the needs of its members, which were considered in the development of the program and accommodated where possible. The pilot year will enable program refinement based on user feedback.

Strategic Plan Alignment

This program aligns with Powering our Future's helping businesses succeed and add value to the community through economic recovery and rebuilding efforts.

Attachments

Attachment-1 Design Guidelines

Attachment-2 Temporary Outdoor Patio Resolutions

Report Author

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This report was approved and recommended by:

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