

Municipality of Lakeshore – Report to Council

Growth & Sustainability

Economic Development & Mobility



To: Mayor & Members of Council

From: Ryan Donally, Division Leader – Economic Development & Mobility

Date: May 9, 2023

Subject: Temporary Patio and Temporary Patio Extension Report

Recommendation

Direct Administration to implement the application for approval to authorize temporary patios and temporary patio extensions, and an application fee of \$250, all as presented at the May 30, 2023 Council meeting; and

Direct the Clerk to prepare the necessary by-laws for implementation.

Background

Commercial permanent patios permitted to sell or serve food, alcoholic and non-alcoholic beverages are currently considered and reviewed during the Site Plan Approval process.

During the Covid-19 pandemic, the Alcohol and Gaming Commission of Ontario (AGCO) introduced automatic temporary extensions of an existing liquor licence on the premises which did not require the formal filing of an AGCO application. Pending approval from municipalities, the liquor licence would extend automatically to the patio onto municipal or private property.

This automatic approval was only in place as per the provincial Reopening Ontario Act Ontario Regulation 345/20. This legislation has been revoked as of April 27, 2022. As such, any establishment that is seeking a temporary or extended patio will need to complete a full application with the Municipality and submit the completed application to the AGCO for review.

In 2021, Community Planning processed 9 completed temporary patio applications. In 2022, only 3 temporary patio applications were processed; however, it was evident that more than 3 temporary patios were in effect. If the proposed By-law is passed, Administration will contact the original 9 businesses to ensure they are aware of the new regulations. Further, this information will be shared with key stakeholders and through Lakeshore communications.

Comments

Administration has fielded requests from businesses seeking to again extend temporary patios for the 2023 season. With the change in provincial law, Administration is seeking direction to formalize a By-law which requires year-over-year application for a temporary patio or temporary patio extension.

The temporary patio and temporary patio extension allows for businesses to follow a simple application process which does not involve or impact site plan control, since it is not permanent in nature. With the excellent weather Lakeshore has to offer, the inclusion of temporary patios will help to attract customers and in turn help small businesses in our communities.

As with any establishment or permanent patio, all other applicable municipal By-laws must be adhered to. This proposed By-law will provide a permanent, clear, and consistent application process for applications, approvals, and enforcement if necessary.

The application will be submitted to Community Planning. Once deemed completed, Community Planning will circulate the application to the Division Leader (or designate) of Building, Fire, and Civic Affairs for approval. Pending direction, a letter of approval or letter of rejection will be returned to the applicant. If approved, Building, Fire and Planning may review the temporary patio once erected.

Key elements of the proposed program include but are not limited to:

- allowing for a temporary or extended patio of up to 50% of total approved occupancy for the existing commercial establishment. The total number of occupants across indoor, permanent patio, and temporary patios cannot exceed the total approved occupant load for the establishment.
- "*Temporary Patio*" meaning a clearly delineated area upon private lands (if zoning compliant) that is designed for a group of tables and chairs and other accessories for the use and consumption of food and beverages sold to the public from, or in, an eligible business in the Municipality of Lakeshore and includes a temporary extension of a AGCO licensed premises, a temporary extension of an existing patio or a permanent patio that is not and is not required to be a AGCO licensed premises, all for which an annual approval from the Municipality is required
- The applicant will be required to complete an annual application and annual application fee of \$250 to cover administrative costs. An additional fee of \$133 as per the 2023 User Fees By-law, "Schedule E – Fire Services," will be also required if the patio is "new" or "significantly changed" to cover the cost of inspection and certification of premises for liquor license approval. These fees are subject to annual User Fee By-law updated costs.
- The Municipality has the right to reject approval if the site/patio plan is not satisfactory to administrative review. The Municipality has the right to revoke the

approval during the Authorized Time Period for non-compliance. The Municipality has the right to refuse year-over-year approval of temporary or extended patio if the patio in question led to multiple and significant by-law infractions the previous season.

For clarity, this by-law will not allow for temporary patios on municipal property.

Regional Scan:

Administration is aware that the Town of Tecumseh, has recently passed a similar By-law with an annual fee of \$250 per year. The City of Windsor has a more extensive bylaw that includes allowing temporary patios in municipal right of ways and parklettes (in individual parking spots). It is anticipated that other municipalities in the region will pass this type of by-law.

Administration recommends the implementation of an approval process for temporary patios and temporary patio extensions. Should Council approve the recommendation, Administration will proceed with drafting the necessary by-laws. Applications can be received during this time and may be ready for approval once the by-laws are adopted.

Financial Impacts

Administration is proposing a fee of \$250 per application for a temporary patio or patio extension, which would include the cost of the liquor licence application. A fee of \$133 will be charged by Fire Services if a physical inspection needs to occur.

Administration will further assess the costs of administering this program and will recommend future adjustments as needed.

Report Approval Details

Document Title:	Temporary Patios and Temporary Patio Extension Report .docx
Attachments:	
Final Approval Date:	May 25, 2023

This report and all of its attachments were approved and signed as outlined below:

Prepared by Ryan Donally

Submitted by Tammie Ryall

Approved by Justin Rousseau and Truper McBride