



## The Corporation of the Town of Tecumseh

Corporate Services & Clerk

**To:** Mayor and Members of Council

**From:** Laura Moy, Director Corporate Services & Clerk

**Date to Council:** June 23, 2020

**Report Number:** CS-2020-21

**Subject:** COVID-19 Economic Recovery – Temporary Patios

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### Recommendations

It is recommended:

**That** CS-2020-21 entitled “COVID-19 Economic Recovery – Temporary Patios” **be received;**

**And that** By-law No. 2020-48 being a by-law to adopt the Temporary Outdoor Patio Guidelines, as appended to CS-2020-21, and authorize the Chief Building Official to inspect all temporary patios and require adjustments to the patio in order to address compliance with the Guidelines, **be approved;**

**And further that** in accordance with Regulation 719 under the Liquor Licence Act, the Council for The Corporation of the Town of Tecumseh **support** the extension of existing liquor licences to temporary patios on **private property** throughout the Town of Tecumseh for the duration of 2020, provided businesses comply with the Town of Tecumseh’s Temporary Outdoor Patio Guidelines;

**And furthermore that** in accordance with Regulation 719 under the Liquor Licence Act, the Council for The Corporation of the Town of Tecumseh **support** the extension of existing liquor licences to temporary patios on **Town property** for the duration of 2020, provided businesses comply with the Town of Tecumseh’s Temporary Outdoor Patio Guidelines and enter into an Encroachment Agreement, in form and content satisfactory to the Town’s Solicitor;

**And furthermore over that** the Mayor and the Clerk **be authorized** to execute an Encroachment Agreement with business owners requesting to encroach onto Town property for a Temporary Outdoor Patio.

## Background

The hospitality sector has been closed to both dine-in and patio service in accordance with the Province's Emergency Orders issued in relation to the COVID-19 pandemic.

Area restaurants and bars are preparing for re-opening, once permitted under the Ontario's [Framework for Re-opening the Province](#) for a gradual, staged approach to reopening the province, restarting the economy and easing the restrictions put in place to stop the spread of the COVID-19 outbreak. [Stage 1](#) of the plan helped more people safely get back to work and enjoy a return to some everyday recreational activities.

[Stage 2](#) will allow more people to get back to work safely while not overburdening the critical services that support families, workers and Ontario's economy. Businesses, organizations and public spaces permitted to open, or increase service during Stage 2, are strongly recommended to review and implement workplace health and safety guidance.

The Ontario government is consulting with the Chief Medical Officer of Health and local medical officers of health, to enable regions of the province to enter Stage 2. Regions approved to reopen are due to positive trends of key public health indicators at the local level, including lower transmission of COVID-19, sufficient hospital health system capacity, local public health capacity to assist with rapid case and contact management, and a significant increase in testing provincially.

As of the time of writing this report, Windsor-Essex has not yet been approved for reopening under Stage 2, however, as previously indicated, many local area restaurants and bars are preparing for reopening when permitted.

In accordance with Stage 2, restaurants, bars, food trucks and other food and drink establishments (e.g., wineries, breweries and distilleries) will be able to open for dining in outdoor areas only, such as patios, curbside, parking lots and adjacent premises. Establishments must take appropriate measures to ensure physical distancing of at least 2-metres between patrons from different households, including:

- using reservations
- limiting number of patrons allowed in the outdoor space at one time
- ensuring enough space between tables, including to allow for movement
- access to indoor facilities is limited to patio/outdoor dining area access, food pickup, payment, washrooms or other health and safety purposes.

Liquor sales licensees, who wish to temporarily extend the physical size of their existing licensed patio, or temporarily add a new licensed patio within the approved period, will also be authorized to do so.

The Alcohol and Gaming Commission of Ontario, as a result of a regulation change (O.Reg. 719 under the Liquor Licence Act) will permit licensed establishments to create a patio adjacent to their premise, or increase the size of their patio, once they are permitted to

welcome patrons on-site under Stage 2. This temporary measure will allow the public to safely enjoy service that meets social distancing requirements and other public health guidelines. These measures will be in effect until January 1, 2021 at 3:00 a.m.

While the Alcohol and Gaming Commission of Ontario (AGCO) will not require licensees to apply, or pay a fee for these temporary extensions, licensed establishments must ensure they have municipal approval and meet all other applicable requirements.

Detailed information for businesses can be found on the AGCO website at: [AGCO Information Bulletin - Liquor Sales Licenses](#). The AGCO changes only address the liquor licence component of a patio extension.

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

1. The physical extension of the premises is adjacent to the premises to which the licence to sell liquor applies;
2. The municipality in which the premise 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 licence 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 metres (12 sq ft) 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.

## Comments

The intent of this report is to support businesses in the hospitality sector during COVID-19 and the Province's Framework for Reopening. Under orders to remain closed to both dine-in and patio service, many restaurants have responded by offering take-out or delivery services. As reopening moves closer, the sector is looking at how best to welcome back and safely service in-house diners at restaurants and customers of licensed bars. The intent, therefore, is to introduce a temporary patio extension process that is streamlined, **with minimal fees**, and to support continued adherence to all prevailing health and safety [guidelines issued by Ontario for the restaurant and food services sectors](#).

The new safety guidelines will most likely add cost to business operations. The ability to offer and maintain physical distancing of a 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 together with reduced seating capacity could negatively impact revenue generation abilities of businesses.

Seating reconfigurations to allow 2 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 a business. A solution to distancing requirements includes extending outdoor patio space to allow for greater table separation and to better manage customer movement. Temporary patio installations on privately owned property should be relatively easy to implement compared to patios on municipally owned property.

**Patios on private property** – the land on which the planned patio extension will be located is privately owned. To extend or add an outdoor patio space, the owner would likely either introduce the patio area on private sidewalks adjacent to the building or remove some parking spaces to install additional seating area. The patio area must be established in accordance with all prevailing municipal guidelines and regulations. All AGCO licensing requirements must also be adhered to. Administration wishes to support economic recovery in the Town and allow businesses to open as soon as possible, therefore we are recommending the Temporary Patio Expansion Guidelines attached in [Appendix 1](#) be adopted, as reviewed by the Town's insurer.

**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, Town owned property could include sidewalks, parking lot/spaces or the boulevard area of a right-of-way. Business owners would be required to enter into an Encroachment Agreement as reviewed by the Town's Legal Counsel and insurer.

For efficiency purposes, it is recommended that Council support the extension of existing liquor licences to temporary patios on private property throughout the Town of Tecumseh for the duration of 2020, provided businesses comply with the Town of Tecumseh's Temporary Outdoor Patio Guidelines, as well as on Town owned property subject to entering into an Encroachment Agreement which the Mayor and Clerk are authorized to execute.

Administration will develop a template which business owners will be asked to use to provide a drawing of their proposed temporary patio or patio extension. The template will allow an internal review sufficient to ensure all matters in the Guidelines are satisfactorily addressed. The template will be available on the Town's website and provided to the Tecumseh Business Improvement Area administration to share with their business members. All efforts will be made to ensure timely review and approval, and in the case of a licenced owner, issuance of a non-objection, as required by the AGCO.

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 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, zoning regulations and by-laws may require review and amendment. A report would be brought back to Council for review and approval, if needed, at that time.

## Consultations

Planning & Building Services

Public Works & Environmental Services  
Fire & Emergency Services  
Frank Cowan

## Financial Implications

There are no financial implications resulting from the recommendations contained in this report nor will there be a fee associated with temporary patio and patio expansion submissions.

Any costs related to requests for temporary patios on municipal property (i.e. ramps, barriers, labour, legal fees or maintenance costs) will be recovered from the business owner requesting a temporary patio.

## Link to Strategic Priorities

Applicable	2019-22 Strategic Priorities
<input checked="" type="checkbox"/>	Make the Town of Tecumseh an even better place to live, work and invest through a shared vision for our residents and newcomers.
<input type="checkbox"/>	Ensure that Tecumseh's current and future growth is built upon the principles of sustainability and strategic decision-making.
<input checked="" type="checkbox"/>	Integrate the principles of health and wellness into all of Tecumseh's plans and priorities.
<input checked="" type="checkbox"/>	Steward the Town's "continuous improvement" approach to municipal service delivery to residents and businesses.
<input checked="" type="checkbox"/>	Demonstrate the Town's leadership role in the community by promoting good governance and community engagement, by bringing together organizations serving the Town and the region to pursue common goals.

## Communications

Not applicable ☒

Website ☐ Social Media ☐ News Release ☐ Local Newspaper ☐

This report has been reviewed by Senior Administration as indicated below and recommended for submission by the Chief Administrative Officer.

Prepared by:

Laura Moy, Dipl. M.M., CMMIII HR Professional  
Director Corporate Services & Clerk

Reviewed by:

Brian Hillman, MA, MCIP, RPP  
Director Planning & Building Services

Reviewed by:

Phil Bartnik, P.Eng.  
Director Public Works & Environmental Services

Reviewed by:

Wade Bondy  
Director Fire Services & Fire Chief, C.E.M.C.

Recommended by:

Margaret Misek-Evans, MCIP, RPP  
Chief Administrative Officer

**Attachment  
Number**

**Attachment  
Name**

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Temporary Patio Guidelines