



The Corporation of the Town of Tecumseh

Legislative & Clerk Services

To: Mayor and Members of Council

From: Robert Auger, Director Legislative Services & Clerk

Date to Council: April 11, 2023

Report Number: LCS-2023-14

Subject: Town of Tecumseh Seasonal Patio By-Law

Recommendations

It is recommended:

That Report LCS-2023-14 Town of Tecumseh Seasonal Patio By-Law **be received;**

And that By-Law 2023-046 be considered for first, second, third and final readings at the April 25, 2023 Regular Council Meeting;

And that By-Law 2022-099, the administrative fees and charges by-law for 2023, be amended accordingly at the April 25, 2023 Regular Council Meeting to allow for the licensing fees proposed in By-law 2023-046;

And further that Administration be directed to implement the Application for Approval Program to authorize Seasonal Patios and Seasonal Patio Expansions within the Town of Tecumseh commencing May 1, 2023.

Background

The Town currently does not have a permanent by-law that regulates all commercial patios that legally sell or serve food and beverages inclusive of existing patios, new patios and any extensions of current patios.

Comments

Prior to the pandemic the Town did not specifically regulate patios that are entirely on private property. In the past when there have been requests to develop or extend a patio onto specific public lands the matter was dealt with as a customized request for an Encroachment Agreement with the Town. But there is currently no general by-law to regulate commercial patios or extensions of such patios whether on private or public lands.

During the Covid-19 pandemic the Alcohol and Gaming Commission of Ontario (AGCO) introduced automatic temporary extensions of an existing liquor license on the premises which temporary extensions did not require the formal filing of an AGCO application but were conditional upon the Town's approval thereof including approval to physically extend the liquor license by way of a patio onto municipal or private lands where applicable. In response to this pandemic measure and in order to try to assist local businesses the Town developed a temporary and expedited application process in order to provide for expedited approvals for businesses to develop or extend their outside patios as a pandemic relief measure from 2020 to 2022.

Now, as of January 1, 2023, the AGCO no longer accepts applications or has the authority to approve temporary outdoor extensions (temporary patios) for licensees located in municipalities. Licensees in municipalities who are interested in having a temporary patio now need to contact their municipality and review all applicable requirements for obtaining such authorization directly from the municipality.

Accordingly, Town administration felt that it should continue to encourage businesses to develop or extend a patio to further assist such businesses in their recovery from the effects of the pandemic. To facilitate this, Administration recommends the development of a permanent by-law with clear and consistent guidelines and requirements across the board that are applicable to all commercial patios as opposed to the temporary patio measures dealing with extensions that were put in place during the pandemic.

As a result, Council has before it proposed By-law 2023-046 being a by-law to adopt Guidelines for Seasonal Patios and Seasonal Patio Expansions and to delegate authority for inspections of Seasonal Patios and Seasonal Patio Extensions.

This by-Law will provide going forward a permanent, clear and consistent annual application process for applications and approvals together with enforcement measures if necessary.

In particular the highlights of proposed by-law 2023-046 are as follows:

- "Eligible Business" means a commercial operation that is legally authorized to sell and/or serve food and beverages.

- "Seasonal Patio" means a clearly delineated area upon private lands (if zoning compliant) or municipal lands 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 Town of Tecumseh for which an annual approval from the Approval Manager has been obtained.
- A Seasonal Patio shall be permitted for the period of May 1st to October 31st. The requirements for approvals of Seasonal Patios will require an Annual Approval Application to construct and/or operate and/or extend a Seasonal Patio.
- Upon receipt of the Application there will be circulation to the appropriate Town Departments and/or agencies to determine whether the Seasonal Patio design, locations and specifications are acceptable.
- As a result of such circulation the Town may refuse to grant approval or impose such terms and conditions as may be necessary and are consistent with the guidelines contained herein.
- Patio applications that have been granted approvals will further need to adhere to and continue to adhere to the Seasonal Patio Guidelines in Schedule "A" to the By-law. For renewal applications, the Town will have the discretion to dispense with some of the requirements outlined in Schedule "A" if, and when, deemed appropriate to do so. This will expedite renewal applications in instances where previously provided information will still suffice.
- The Owner are required to submit with the Annual Approval Application an annual application fee of \$250 to cover administration application processing and inspection time in connection with said Application. This application fee may be subject to amendment from time to time if so prescribed by the Town's Fees and Charges By-Law.
- Approvals provided by the Town may be subject to any additional conditions deemed advisable for the protection of municipal property or to help ensure the safety of the public.
- The Owner is required to indemnify and save harmless the Town, Council and municipal employees from any liability which the Town may suffer, incur or be held liable for resulting directly or indirectly from the issuance of the Application Approval and its renewals.
- The Owner must also provide satisfactory proof of insurance.
- The Town may have the right to revoke the Approval for non-compliance.

- If a patio is on Town property and the Town requires the encumbrance for municipal purposes then the Owner shall remove the patio upon fourteen days failing which the Town may remain and recover the costs thereof.
- A Town Officer has the right to inspect the patio for compliance with this by-law and issues orders in respect thereof.
- Contraventions of this by-law may subject the owner to penalties and/or fines including any Part 1 offences/set-fines may be assessed and approved pursuant to the *Provincial Offences Act, R.S.O. 1990*.

The Schedule A guidelines that will need to be complied with and followed by all Patios include such matters as:

- Provision of sufficient information to assess the proposed patio or patio extensions as applicable.
- Compliance with AGCO regulations and all other applicable laws including zoning regulations, electrical regulations, fire regulations and the Accessibility for Ontarians with Disabilities Act (AODA).
- If requested, a security deposit of up to \$1000.00 to ensure the construction of the patio/patio extension complies with Town requirements.
- The satisfying where applicable of certain installation, operation and design criteria as further outlined in Schedule A.
- If the proposed patio/patio is on Town Lands, then there are further requirements to indemnify the Town for any damage to those public lands including damage to utilities together with a requirement to provide access to such utilities or lands as and when needed.
- Requirement to provide emergency vehicle access.
- Health and Safety requirements.
- Ongoing clean up and maintenance requirements.
- If the patio is on Town property an annual requirement to not only cease patio operations by October 31 but there is the additional requirement to tear down and remove the patio from the public right of way by November 30 unless otherwise authorized.

Consultations

Development Services
Community Safety
Public Works & Engineering Services

Financial Implications

There is a fee proposed in the amount of \$250 per application for approval which approximates the costs associated with the Chief Building Official conducting an inspection. While Administration will further assess the costs of administering this program the current fee proposed is comparable and will provide for some cost recovery associated with the time and/or costs of administering the annual approval process and conducting inspections as and when required under this by-law.

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 type="checkbox"/>	Integrate the principles of health and wellness into all of Tecumseh's plans and priorities.
<input type="checkbox"/>	Steward the Town's "continuous improvement" approach to municipal service delivery to residents and businesses.
<input 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:

Robert Auger, LL.B.
Director Legislative Services & Clerk

Reviewed by:

Chad Jeffery, MA, MCIP, RPP
Manager Planning Services & Local Economic Development

Recommended by:

Margaret Misek-Evans, MCIP, RPP
Chief Administrative Officer

Attachment Number	Attachment Name
1	Proposed By-law 2023-046 Temporary Outdoor Patios and Extensions