

STAFF REPORT

THE CORPORATION OF THE TOWN OF COBOURG



Report to:	Mayor and Council Members	Priority:	<input type="checkbox"/> High <input checked="" type="checkbox"/> Low
Submitted by:	Brent Larmer, Municipal Clerk/Manager of Legislative Services blarmer@cobourg.ca	Meeting Type: Open Session <input checked="" type="checkbox"/> Closed Session <input type="checkbox"/>	
Meeting Date:	February 22, 2021		
Report No.:	Corporate Services-032-21		
Submit comments to Council			

Subject/Title: Outdoor Patio By-law Amendment – Cobourg DBIA Request

RECOMMENDATION:

THAT Council authorize the preparation of a By-law to be presented to Council at a Regular Council Meeting to amend By-law No.022-2002 Section 8 a) to permit Outdoor Patios Permits to take effect on March 1, 2021 until November 30, 2021; and

FURTHER THAT Council approve the renewal and application process for an Outdoor Patio Permit to commence following the approval of this resolution and prior to the final reading of the Outdoor Patio By-law Amendment.

1. STRATEGIC PLAN

Not Applicable

2. PUBLIC ENGAGEMENT

The Town of Cobourg has continuously engaged the local restaurants across the Town of Cobourg in order to assist those business in successful operation in the COVID-19 Pandemic realm.

3. PURPOSE

The purpose of this report is to provide Council with a response and recommendation as a follow-up to the request from the DBIA received by the Town of Cobourg regarding the early operation of Outdoor Patios.

A “restaurant or bar patio” means an area that is not an enclosed public place or an enclosed workplace and that meets the following criteria (as defined under the *Framework for Reopening Ontario Act*):

1. The public is ordinarily invited or permitted access to the area, either expressly or by implication, whether or not a fee is charged for entry, or the area is worked in or frequented by employees during the course of their employment, whether or not they are acting in the course of their employment at the time.
2. Food or drink is served or sold or offered for consumption in the area, or the area is part of, or operated in conjunction with, an area where food or drink is served or sold or offered.
3. The area is not primarily a private dwelling.

4. ORIGIN AND LEGISLATION

The Town of Cobourg regulates Outdoor Patios through By-law No.022-2002. These Patios most commonly encroach onto municipally owned property, being Municipal Sidewalks fronting each restaurant establishment.

The Alcohol and Gaming Commission of Ontario (AGCO) made changes in 2020 which have extended into 2021 to applicable regulations that will allow businesses which serve alcohol 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 beyond 14 days provided there is municipal approval to do so and that certain requirements are met. This included being more generous in their definition of ‘adjacent’ which created opportunities for restaurants to use public land such as sidewalks, street side parking spaces, and laneways.

On July 15, 2021, the province of Ontario introduced Ontario Regulation 345/20 regarding patios and exemption under the Planning Act, which states:

A by-law that would authorize the temporary use of land for a restaurant or bar patio under section 39 (Temporary Use Provisions) of the *Planning Act* is exempt from subsections 34 (12) to (14.3), (14.5) to (15) and (19) of that Act and paragraphs 4 and 5 of subsection 6 (9) of Ontario Regulation 545/06 under that Act. Pursuant to O. Reg 345/20, temporary use by-laws that would authorize the temporary use of land for a restaurant or bar patio (under section 39 of the Planning Act) are exempt from the requirements of public meetings, availability of information in advance of a meeting and public notices and appeals to the L.P.A.T.

The effect of O. Reg 345/20 is to eliminate certain typical planning processes and requirements to enact temporary use by-laws and to help expedite the creation of extended outdoor patio spaces to safely accommodate patrons where licensed establishments are permitted to reopen.

5. BACKGROUND

The COVID 19 pandemic caused restaurants to close (except takeout/delivery) on two different lockdown periods twice in 2020 and extended into 2021. During the first lockdown stages in summer of 2020 the province allowed restaurants to offer outdoor in-person dining as long as they followed all public health guidelines (physical distancing, contact tracing, reservations only, etc.). Many local restaurants expressed the interest in 2020 in gaining additional outdoor space in order to accommodate the new rules and have a better chance at success. These requests came from restaurants in the DBIA area seeking permission to use public land in the downtown area, as well as requesting the extension of their previous outdoor patios, as well as requests were made from restaurants on private property throughout town.

The Province of Ontario announced that the Haliburton Kawartha Pine Ridge District Health Unit on February 16, 2021 was able to move into the Orange Category of the Provinces Reopening Framework. On February 16, 2021, at the Committee of the Whole Council Meeting the DBIA Chair attended the Council meeting to request the early permitting of Outdoor Patios in 2021 in order to accommodate the new rules and have a better chance at success.

Since the beginning of February 2021, the Town has received requests from restaurants in the DBIA seeking permission to use public land in the downtown area, as well as from restaurants on private property throughout town to start to extend patios and install Outdoor patios.

6. ANALYSIS

In 2020 the Town of Cobourg provided a comprehensive program for Cobourg Restaurants to apply for Patio Extensions across the Town, including those encroaching on Municipal Property and Patios that are operating on Private Property. During this time, the Town released an Outdoor Patio Guide, as attached to the report as Appendix "A".

The 2020 patio program was a tremendous success. It allowed restaurants, particularly those in the downtown core, to reopen and have a realistic chance at recovery by providing additional outdoor dining space that would normally not be available for use. Supporting the restaurant industry in the downtown core has a ripple effect for the other businesses on King Street. Restaurants are a major driver of economic activity downtown. The Town of Cobourg processed a record number of Outdoor Patios within the Downtown Core and also extended almost all reoccurring Outdoor Patio's Liquor License to allow for additional space to accommodate Physical distancing.

If the restaurants are open and operational they attract customers to the area who will stay for longer periods of time and potentially spend money at other businesses while in the area. This is why their success is critical for the continued enhancement of our downtown and our local economy.

The patio program involved a coordinated effort from the following Town departments along with support from Council and DBIA:

- Legislative Services
- Building
- Planning
- Public Works
- Communications
- Cobourg Fire

The Current Town of Cobourg Outdoor Patio By-law 022-2002, provides for Patios to be erected on Municipal Property through Application (New/Renewal) starting on April 1, 2021. Traditionally, most Outdoor Patios have been processed at the end of April and the start of May, this is due to the more favorable weather that occurs that time of year. The Outdoor Patio By-law permits Patios to be closed and removed by October each year.

As part of the request from the Cobourg DBIA, the Town is in agreement that the Outdoor Patio timelines should be adjusted to allow for Outdoor Patios to open one (1) month earlier and to be closed one month later than what is already permitted in the current By-law.

The Town of Cobourg will continue to work with the Cobourg DBIA and other local Town of Cobourg restaurants to determine additional ways to help support the local economy in any way possible during the continued COVID-19 Pandemic.

7. FINANCIAL IMPLICATIONS/BUDGET IMPACTS

There are no financial implications resulting from the recommendations. There will be Staff time designed across departments within the Town to process applications for Outdoor Patios, and License Patio Extensions that will be administered through the Legislative Services Department.

8. CONCLUSION

That Council authorize the preparation of a By-law to be presented to Council at a Regular Council Meeting to amend By-law No.022-2002 Section 8 a) to permit Outdoor Patios Permits to take effect on March 1, 2021 until November 30, 2021.

Document Title:	Outdoor Patio By-law Amendment - Cobourg DBIA Request - Corporate Services-032-21.docx
Attachments:	- Clerk Package Building-Planning-Fire Patio Requirement Checklist Draft 5_MF_Branding.pdf
Final Approval Date:	Feb 21, 2021

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

Tracey Vaughan, Chief Administrative Officer - Feb 21, 2021 - 4:05 PM