

Municipality of Chatham-Kent

Community Development

Planning Services

Building Development Services

To: Mayor and Members of Council

From: Ryan Jacques, MCIP, RPP
Director, Planning Services

Paul Lacina, CBO
Director, Building Development Services

Date: March 14, 2023

Subject: Zoning By-law Amendment – Temporary Outdoor Patio Extensions

Recommendation

It is recommended that:

1. The proposed Zoning By-law Amendment pertaining to Temporary Outdoor Patio Extensions to introduce a new regulation to allow the operation of Temporary Outdoor Patios for a maximum of eight months per calendar year, in accordance with Ontario Regulation 746/21, be approved, and the implementing by-law be adopted.

Background

The Chatham-Kent Zoning By-law contains General Provisions to regulate the use of Outdoor Patios on private property. The regulations are set out in Section 4.32 – Outdoor Patio.

Effective January 1, 2023, the Government of Ontario has amended Regulation 746/21 under the *Liquor Licence and Control Act, 2019* establishing a new framework for temporary outdoor physical extensions (temporary patios). These changes impact liquor sales license holders and manufacturer by-the-glass endorsement holders¹.

As a result of this change Chatham-Kent has new authorities and responsibilities, including:

¹ [New Framework for Temporary Outdoor Physical Extensions \(Temporary Patios\) | Alcohol and Gaming Commission of Ontario \(agco.ca\)](https://www.agco.ca/en/liquor-sales-licensing/new-framework-for-temporary-outdoor-physical-extensions-temporary-patios)

- Chatham-Kent has the authority to approve temporary patios for up to eight months total in a calendar year (does not need to be eight consecutive months). for liquor sales licensees and by-the-glass endorsement holders.
- Chatham-Kent has the option to approve for less than eight months, if it wishes.
- Chatham-Kent has the authority to specify conditions on the approval.

Licensees in Chatham-Kent must get approval of temporary patios from Chatham-Kent and must notify the Alcohol and Gaming Commission of Ontario (AGCO) of an approval, the duration of the approval and any conditions on the approval.

Comments

The Zoning By-law must be updated to accommodate the new Provincial regulations pertaining to temporary outdoor patio extensions. These include:

1. Clarifying in Section 4.32 that an outdoor patio can either be temporary or permanent.
2. Adding one new general provision as Section 4.32(i) stating that temporary outdoor patios shall only be permitted to operate a maximum of eight months per calendar year.

The proposed amendments are incorporated into Section 4.32 – Outdoor Patio as it will read in the amended Zoning By-law:

4.32 Outdoor Patio

A temporary or permanent outdoor patio shall only be permitted as an accessory use to an “Eating Establishment” or “Tavern” in accordance with the following provisions:

- a) The outdoor patio shall not exceed 50% of the gross floor area devoted to patron use of the main use;
- b) That up to 15% of the required and/or existing parking spaces for the main use may be used to construct an outdoor patio. The required number of accessible off-street parking spaces must still be provided;
- c) An outdoor patio shall not be permitted in any yard located between the building containing the main use and any Residential Zone;
- d) Any lighting facilities illuminating an outdoor patio shall be arranged so as to deflect light away from adjoining properties and streets;
- e) The use of musical instruments, or other mechanical or electrical music equipment is permitted in accordance with the Municipality’s Noise By-law.

- f) Dancing, theatrical performances or audiovisual presentations, music concerts and shows, shall not be permitted;
- g) The ground surface of an outdoor patio shall be of concrete or other hard surface; and,
- h) The outdoor patio shall be completely enclosed by a physical barrier.
- i) *Temporary outdoor patios shall only be permitted to operate a maximum of eight months per calendar year*

Areas of Strategic Focus

This report supports the following areas of strategic focus:

			
Economic Prosperity	Healthy & Safe Community	People & Culture	Environmental Sustainability

Consultation

No consultation was required in the preparation of this report.

Communication

Information on Council's action will be posted to the municipal website. All persons who have made a submission regarding this application will receive a notice of Council's decision. Any other person who wishes to receive notice must submit a written request to the Clerk.

Diversity, Equity, Inclusion and Justice (DEIJ)

This report does not have implications related to diversity, equity, inclusion or justice.

Financial Implications

There are no financial implications resulting from the recommendation.

Prepared by: Ryan Jacques, MCIP, RPP, Director, Planning Services

Reviewed by: Paul Lacina, CBO, Director, Building Development Services

Reviewed by: Bruce McAllister, MCIP, RPP, General Manager, Community Development

Attachment: By-law to amend By-law 216-2009