



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Parking and By-Law Services Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	February 28, 2017
SUBJECT/REPORT NO:	Permanent On-Street Patio Program (PED16119(a)) (Wards 1, 2, 3, 4, 6, 7, 8, 9, 11, 12, 13 and 15)
WARD(S) AFFECTED:	Wards 1, 2, 3, 4, 6, 7, 8, 9, 11, 12, 13 and 15
PREPARED BY:	Kelly Barnett (905) 546-2424 Ext.1344 Marty Hazell (905) 546-2424 Ext. 4588
SUBMITTED BY:	Jason Thorne General Manager Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That a permanent On-Street Patio Program be approved to operate annually from May 1st to October 31st within all Community Improvement Plan Areas (CIPAs) and Business Improvement Areas (BIAs) in accordance with the criteria and guidelines identified in Appendix “A” to Report PED16119(a);
- (b) That a \$400.00 annual administration fee be approved for on-street patio applications, and added to the City’s User Fee By-law.

EXECUTIVE SUMMARY

On June 15, 2016, Report PED16119 was approved to initiate an On-Street Patio (OSP) Pilot Program from July 1, 2016 to October 31, 2016.

As detailed in this report, the OSP pilot program was a very positive experience and, based on feedback received, staff is recommending that the program be made permanent with some required changes identified in this report.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Staff is recommending a \$400.00 annual administration fee to cover the costs of administering the program and estimated lost parking meter revenues.

Staffing: n/a

Legal: Although each patio operator is required to obtain \$5 M Commercial General Liability Insurance for patio extensions onto road allowance as per standard City practice, Risk Management advises that the City may still be exposed to liability.

HISTORICAL BACKGROUND

On April 27, 2016, City Council passed the following motion:

“7.10 Proposed Pilot Program for the City’s Business Improvement Areas (BIAs) – Establishing Temporary, Seasonal Patios and Seating Areas Utilizing On-Street Parking Spaces (Item 8.3) (Green/Skelly)

WHEREAS outdoor patios and seating areas can enhance the vibrancy and activity on commercial streets;

WHEREAS opportunities for outdoor patios and seating areas on sidewalks is very limited, or impossible, in many of the City’s older commercial areas;

WHEREAS many small businesses and BIAs in the City’s older commercial areas could benefit from having additional outdoor space for their customers and clientele; and,

WHEREAS other cities in Ontario have implemented programs to support temporary, seasonal patios utilizing the on-street parking areas of commercial streets.

THEREFORE BE IT RESOLVED

- (a) That the Planning and Economic Development Department, with support from the Public Works Department, develop for Council’s consideration a report outlining a proposed pilot program for the City’s Business Improvement Areas (BIAs); Kenilworth Merchant Association; James Street North Merchant Association and all other Merchant Associations and all Business Areas with standard liability insurance in place, that would permit local businesses and/or the BIA’s to establish temporary, seasonal patios and seating areas with music/live entertainment utilizing on-street parking spaces and;
- (b) That the pilot program be ready for implementation in 2016;
- (c) That the pilot program include mechanisms to streamline any necessary approvals to permit temporary, seasonal patios and seating areas while ensuring appropriate regard to issues such as safety, traffic flow, parking revenues and other matters; and,

- (d) That the report include a process for monitoring the success of the pilot program, and a mechanism for reporting back to Council with recommendations for the continuation and / or expansion of the program in 2017 for Council's consideration"

On June 15, 2016 Council approved staff's recommendations to undertake a pilot program. The pilot ran from July 1, 2016 to October 31, 2016.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

n/a

RELEVANT CONSULTATION

Building Services, Public Works, Legal Services, Risk Management, Tourism and Culture, Planning, Parking and By-law Services, Public Health Services, Hamilton Fire Department, Paramedic Services, Hamilton Business Improvement Areas and The Alcohol and Gaming Commission of Ontario were consulted in the preparation of this report.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

As part of assessing the On-Street Patio (OSP) pilot program, staff met with each of the eight operators who participated in the pilot. All eight operators felt that the pilot was a success and they fully support a permanent program. In addition, 350 patio patrons were surveyed. Of the 113 responses, 97% were in support of the patio program and staff received no negative feedback about the pilot program. While some minor operational issues arose during the pilot, they were all successfully resolved by staff.

The proposed permanent OSP program aligns with Council's vision of the approved Downtown and Community Renewal Community Improvement Plan, dated May 2016 (By-law 16-126), as it provides place making opportunities through public realm improvement and the creation of vibrant streetscapes.

In view of the above, staff is recommending consideration of a permanent OSP program, in accordance with the criteria and guidelines appended hereto as Appendix "A" to this report.

While the Council approved pilot was to include the "Kenilworth Merchant Association, James Street North Merchant Association and all other Merchant Associations and all Business Areas with standard liability insurance in place", only one Merchant Association (James Street North) participated. Staff is recommending that the permanent OSP be allowed only in BIAs and CIPAs as identified in Appendix "B" to this report, because under section 106 of the Municipal Act, a municipality cannot assist directly or indirectly any commercial business through the granting of bonuses, except in CIPAs and BIAs.

The On-Street Patio (OSP) pilot program was limited to a maximum of 30 locations throughout the BIA's and Merchant Associations (2 patios per BIA and Merchant Association). Post-pilot consultation indicates that most BIAs wanting to participate in a patio program support not limiting the number of on-street patios allowed. Therefore, staff recommends no limits in BIA's in the OSP permanent program unless a BIA advises, in writing, that they wish to limit the number of on-street patios in their area. Applications for OSPs outside a BIA but within a CIPA will be reviewed by staff in consultation with the Ward Councillor. In the event that applications for OSP locations exceed the number of legal parking spaces in a block, a lottery will be held annually to determine the approval of the Road Occupancy Permits.

On January 17, 2017, Planning Committee tabled report PED16155(a) which recommended changes to the Zoning By-law and Noise Control By-law that would establish a Temporary Use By-law in seven pilot project areas to allow entertainment on outdoor commercial patios. Music or live entertainment could be permitted on OSPs, pending Council's disposition of report PED16155(a)

Although alcohol service was not permitted for the pilot OSP program, post-pilot consultation revealed strong support for allowing the service of alcohol for a permanent OSP program. Staff consulted with the Alcohol and Gaming Commission of Ontario (AGCO), who advise that alcohol may be served on an OSP if an existing licensed establishment obtains a permanent licence extension through the AGCO. This is a more complex process than applying for a temporary extension and has an application fee of \$815.00. As part of obtaining a licence extension to serve alcohol on an OSP, the City is required to provide comments and Public Health and Fire inspections are undertaken once the patio is constructed. The fee for City comments/inspections is \$499.00.

As the permanent patio program will involve the use of on-street parking spaces, Hamilton Municipal Parking System staff will administer the program and staff will be monitoring and making adjustments, as required, as the program evolves.

ALTERNATIVES FOR CONSIDERATION

n/a

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Strategic Priority #1

A Prosperous & Healthy Community

WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.

Strategic Objective

- 1.3 Promote economic opportunities with a focus on Hamilton's downtown core, all downtown areas and waterfronts.
- 1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

Strategic Priority #2

Valued & Sustainable Services

WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner.

Strategic Objective

- 2.1 Implement processes to improve services, leverage technology and validate cost effectiveness and efficiencies across the Corporation.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" – Criteria List and Guidelines for On-Street Patio Program

Appendix "B" – Boundary Maps

mh/kb