



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**General Manager's Office**

<b>TO:</b>	Chair and Members Open For Business Sub-Committee
<b>COMMITTEE DATE:</b>	March 27, 2018
<b>SUBJECT/REPORT NO:</b>	Outdoor Boulevard Café Process Improvement (PED18075) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Robert Lalli (905) 546-2424 Ext. 4674
<b>SUBMITTED BY:</b>	Jason Thorne General Manager Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That the Encroachment on City Property Policy, approved by City Council at its meeting of April 29, 2009, through Report PED09127 on the Hess Village Review, which required a patio layout plan to be approved to the satisfaction of the Manager of Development Planning prior to approval of an Encroachment Agreement, be amended to only require a patio layout plan, if the patio construction also requires a Building Permit as defined in the *Building Code Act*;
- (b) That the General Manager of Public Works be authorized and directed to make any and all necessary changes to the existing Encroachment on City Property Policy, previously approved via Report PW11024, to remove the requirement for a minor site plan approval for patios that do not trigger a Building Permit requirement under the Ontario Building Code and to streamline the circulation process for applications for Encroachment Agreements for patios;
- (c) That Legal Services be authorized to modify existing precedent agreements used in granting encroachments, including Outdoor Boulevard Cafés, where required, in accordance with the recommendations made in Recommendation (a) and (b) of Report PED18075.

## **EXECUTIVE SUMMARY**

This Report reflects the work of a multidisciplinary team of City staff in Planning and Economic Development and Public Works to address the issues identified by the Open For Business Sub-Committee and the Planning and Economic Development Continuous Improvement Team with respect to the process by which Outdoor Boulevard Cafés (Patios) are approved in the City. This Report proposes a new, streamlined process in which a Minor Site Plan Application is no longer required for an Outdoor Boulevard Café unless the need for a Building Permit under the Ontario Building Code is required. The new process also reduces the number of City staff and agency circulations to improve efficiency and reduce approval times. These recommendations will address the issue of long approval periods, and will ultimately allow improvements to our process, while still maintaining the integrity of these processes in alignment with our Open For Business mandate.

***Alternatives for Consideration – See Page 4***

## **FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: The recommendations have no financial implications.

Staffing: There are no staffing implications associated with the recommendations in this Report.

Legal: Legal Services will continue to be involved in the agreement process related to encroachments and will be authorized to modify the existing precedent agreement to align with recommendations within Report PED18075.

## **HISTORICAL BACKGROUND**

At its meeting of April 27, 2009, Committee of the Whole (COW) Report PED09127 was considered and subsequently approved by Council (COW Report 09-013) on April 29, 2009, which principally dealt with the administration by the City of such matters as handling of applications for liquor licences, road allowance encroachments through City Outdoor Patio Encroachment Agreements, Encroachment Agreements on the Hess Village Pedestrian Mall and assistance to Hamilton Police Services through the Public Works Department. With respect to the issue of Outdoor Patio Encroachment Agreements, it was recommended that a requirement of approval of an Encroachment Agreement for a patio be that the applicant prepare and submit a patio layout plan to the satisfaction of the Manager of Development Planning.

Further, Report PW11024 to Public Works Committee on April 4, 2011, approved by Council as Public Works Committee Report 11-005 on April 13, 2011, established the Encroachment on City Property Policy and the Encroachment on City Property Procedure with the General Manager of Public Works authorized and directed to amend the procedure as required. The purpose of this Report was to formalize written policies and procedures detailing steps and controls to manage processes and agreements for encroachments and outdoor boulevard cafés.

Due to recent issues and complaints received from applicants regarding processing timelines for Outdoor Boulevard Café Agreements, staff on the Continuous Improvement Team looked into the feasibility of adjusting the current requirements in order to increase efficiencies while still maintaining the integrity of these processes.

In the Fall of 2017, staff in Legal, Building, Zoning, Fire Prevention Bureau, Licensing, Planning, and Public Works met to discuss and consider changes to current processes and the steps needed in order to ensure compliance is maintained while working through the process changes.

On March 7, 2018, staff proposed process changes to the Continuous Improvement Team that would only require an Outdoor Boulevard Café to require Site Plan Approval if a Building Permit was required and staff were in favour of the proposed changes.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

### Encroachment on City Property Policy

This Policy establishes a formal process for the consideration of requests for encroachments in, on, above, or under City property and subsequent approval and management of Encroachment Agreements.

### Municipal Act

The City is authorized to enter into encroachment agreements pursuant to Sections 8, 9, and 10 of the *Municipal Act, 2001*, which further authorizes the City, amongst other things, to delegate its authority and to impose fees or charges on persons for services or activities provided or done by or on behalf of it.

### Streets By-Law No. 9329

This By-law describes encroachments on City streets and indicates that an annual fee and charge may be deemed reasonable.

## **RELEVANT CONSULTATION**

The following City Departments and Divisions were consulted on the proposed process change:

- Corporate Services Department: Legal Services
- Planning and Economic Development Department: Development Engineering, Planning, Building, Licensing, Zoning
- Public Works Department: Engineering Services: Geomatics and Corridor Management
- Fire Prevention Bureau

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

The current approval process of a patio requires all applicants to go through the Minor Site Plan Application process followed by the Encroachment Agreement process. This can result in lengthy approval times and extensive staff time across multiple City Departments. Currently, multiple internal and external agencies are circulated through two Departmental processes. The proposed change to only require a Minor Site Plan Application for a patio if a Building Permit is required maintains the integrity and intent of the need for such requirements, while increasing process efficiencies by streamlining the circulation process, which will decrease the approval timeline. The change to remove the site plan process, where no Building Permit is required also provides a significant financial savings to the applicant. The proposed changes, if approved, are expected to shorten the approval process by approximately ten weeks over the existing process.

## **ALTERNATIVES FOR CONSIDERATION**

The City could maintain the existing Outdoor Boulevard Café Encroachment process as is.

## **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

### **Economic Prosperity and Growth**

*Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.*

### **Healthy and Safe Communities**

*Hamilton is a safe and supportive city where people are active, healthy and have a high quality of life.*

### **Culture and Diversity**

*Hamilton is a thriving, vibrant place for arts, culture and heritage where diversity and inclusivity are embraced and celebrated.*

### **APPENDICES AND SCHEDULES ATTACHED**

Appendix "A": Flowcharts of Existing and Proposed Processes