



WELCOME TO THE CITY OF HAMILTON

# PLANNING COMMITTEE

April 5, 2022

# PED16155(c)

Entertainment on Outdoor Commercial Patios – Amendments to City of Hamilton Zoning By-law No. 05-200 and the Town of Ancaster Zoning By-law No. 87-57, Town of Dundas Zoning 1By-law No. 3581-86, Town of Flamborough Zoning By-law No. 90-145-Z, Town of Glanbrook Zoning By-law No. 464, former City of Hamilton Zoning By-law No. 6593, and City of Stoney Creek Zoning By-law No. 3692-92

Presented by: Alana Fulford

# Background

- 2016: staff report on how other major cities address outdoor entertainment on restaurant/bar patios, including live or recorded music and dance facilities.
- Municipal Tools to Control Noise and Land Uses:
  - Noise Control By-law: regulates noise and authorizes exemptions from the By-law for certain types of noise under certain conditions.
  - Zoning By-laws: regulate land uses through permissions and prohibitions of land use and associated regulations.

# Background

- May 2017: Council approved a Temporary Use By-law to remove the restrictions on outdoor entertainment/recreation for a series of pilot project areas – urban and rural.
  - Urban Pilot Project Areas:
    1. Downtown Hamilton
    2. Hess Village
    3. West Harbour area\*
    4. Downtown Dundas
    5. James Street North
    6. James Street South/Augusta Street
    7. Upper James Street (Stone Church to Rymal Road)
- \* Removed from pilot project as a condition of appeal withdrawal

# Pilot Project

- Zoning By-law Amendments
  - Three Temporary Use By-laws were approved to permit commercial entertainment/recreation on outdoor commercial patios (OCPs) within pilot project areas for twenty-four months - to May 10, 2019.  
**(Subsequently extended until May 1, 2022)**
- Amendments to the Noise Control By-law
  - With the Noise By-law relied upon to regulate noise from OCPs, a Noise Exemption Permit (NEP) was introduced to address a public concern or complaint.

# Pilot Project

- Noise Control By-law: Noise Exemption Permit
  - An order under the Noise By-law could be remedied by discontinuing the use or apply for a Noise Exemption Permit (NEP)
  - NEP – Key Conditions:
    - Limitations on dates/times that noise can occur
    - Noise level restriction – maximum equivalent sound level of 60 dBA measured at the property line.
    - Compliance with all City By-laws
  - Application requires a certified acoustic report with a floor plan and requires public and Councillor notification.

# Pilot Project Evaluation

- When the pilot project was initiated in 2017, Recommendation (b) of the staff report stated:
  - “(iii) That Municipal Law Enforcement (MLE) staff be directed to undertake an enforcement pilot program for the duration of the Temporary-Use By-law approved in City Initiative 16-C, to administer and enforce the Outdoor Commercial Patio exemption permits under the Noise Control By-law and monitor related activity levels; and,
  - (iv) That staff, at the conclusion of the pilot project, analyze the data and evaluate the results to determine if the actions and initiatives met the goals and objectives of the project for a final report to the Planning Committee.”**

# Pilot Project Evaluation

- The primary means of analysis has been through data collection of:
  - Application for and issuance of Noise Control By-law exemption permits.
  - Tracking municipal by-law complaints specific to noise on OCPs.



# Pilot Project Results

- Inside pilot project areas, there have been no noise complaints/investigations from OCPs, therefore, no NEPs were required.
- Most OCPs in the pilot project areas declined to introduce any form of outdoor entertainment.
- The pilot project demonstrated a responsible and measured approach by business owners.

# Recommendations

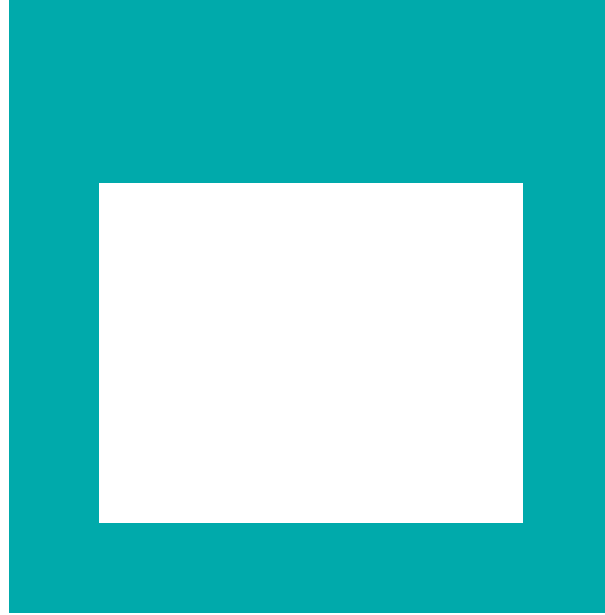
- The Noise Control By-law and its Noise Exemption Permit process is the preferred method to regulate noise.
- Subject to approval of this Report, the Licencing By-law be amended by adding a condition stating business licence holders may not permit noise from commercial entertainment/recreation on OCPs.
- This will add a layer of enforcement to ensure nearby residents aren't disturbed by activities from an OCP and will be enforced by fines under the Administrative Penalty By-law.

# Recommendations

- Proposed Amendments to the Zoning By-laws
  - Remove the prohibition of commercial and entertainment on OCPs city-wide
  - With this city-wide recommendation, there are two areas to specifically mention:
    - Rural Area
    - West Harbour Area

# Recommendations

- Rural Area:
  - The properties selected for the pilot project mainly consisted of restaurants on golf courses, or restaurants in a rural settlement area or as part of a private club.
  - Having also evaluated these rural sites, it is recommended that the rural area can be addressed in the same way as the remainder of the City.
- West Harbour Area:
  - Area removed from the pilot project
  - Pilot project analysis has demonstrated a reasonable and balanced solution to entertainment on OCPs that can be applied city-wide, including establishments within the West Harbour Area.



THANK YOU

THE CITY OF HAMILTON PLANNING COMMITTEE