



City of North Bay Report to Council

Report No: CSBU-2023-008

Date: January 16, 2023

Originator: Beverley Hillier, Manager, Planning & Building Services

Business Unit:

Department:

Community Services

Planning & Building Department

Subject: Temporary Physical Extensions of Licensed Premises – Outdoor Patios

Closed Session: yes ☐ no ☒

Recommendation

1. That the Guidelines “Temporary Physical Extension of Licensed Premises”, attached as Appendix A to Report to Council CSBU 2023-08, be used to regulate the temporary outdoor physical extensions of licensed premises; and
2. The parking fees applicable under the existing Sidewalk Patio Program in Downtown North Bay be waived for 2023 and 2024.

Background

Throughout COVID-19 the provincial government created temporary measures to allow municipalities the authority to grant temporary extensions to licenced premises under regulation 746/21. 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), which took effect on January 1, 2023. These changes impact liquor sales licence holders and manufacturer by-the-glass endorsement holders.

This regulation has been amended and appointed municipalities as the authority to approve temporary patio extensions, subject to the City’s Guidelines & the Alcohol Gaming Commission of Ontario’s (AGCO) patio policy. The AGCO no longer accepts applications or has the authority to approve temporary patios for licensees located in municipalities.

City Council passed a motion and resolution in 2020, 2021 and 2022 to support outdoor dining during COVID-19 that was in line with the provincial government’s temporary patio extension policy.

Through this approval the Manager of Planning & Building Services was delegated approval authority for the temporary extensions to licensed premises. In addition, throughout 2020, 2021 and 2022, municipal fees associated to license approvals were waived.

It is proposed that the Manager of Planning & Building Services continue to have delegated authority for decisions related to temporary extensions to licensed premises. In addition, the following municipal fees associated with license approvals be re-established as it was intended that this waiving of fees was a temporary measure during COVID-19:

- Building permit fees
- Municipal Alcohol License approvals and extensions issued through the City Clerk's Office

It is proposed, given the pending construction of Main Street, that the parking fees applicable under the existing Sidewalk Patio Program in Downtown North Bay be waived for 2023 and 2024. Applicants are still required to enter into the applicable agreement with the City and fees will become required for the 2025 patio season.

Effective January 1, 2023, individual municipalities will:

- Have the authority to approve temporary outdoor extensions of licensed premises for up to a total of eight months in a calendar year.
- Be permitted to create their own conditions on the municipal approval.
- Be responsible for ensuring compliance with any conditions placed on the temporary outdoor extension approved by the municipality.

The AGCO continues to process applications for permanent indoor and outdoor extensions and temporary indoor extensions.

Financial/Legal Implications

In 2020, 2021 and 2022 a total of 8, 7, and 1 temporary patio extensions were approved by the City respectively.

The financial implications averaged approximately \$2,000 per year.

Waiving the parking fees applicable under the existing Sidewalk Patio Program in Downtown North Bay for 2023 and 2024 would have a financial impact of approximately \$600-\$2400 per year (\$100/per space/month) on municipal revenue. The total financial implication would depend on the number of participating patios and number of parking spaces impacted.

Corporate Strategic Plan

- | | |
|---|--|
| <input type="checkbox"/> Natural North and Near | <input type="checkbox"/> Economic Prosperity |
| <input type="checkbox"/> Affordable Balanced Growth | <input type="checkbox"/> Spirited Safe Community |
| <input checked="" type="checkbox"/> Responsible and Responsive Government | |

Specific Objectives

- Ensure the efficient and effective operations of the City, with particular consideration to the impact of decisions on the property tax base

Options Analysis

Option 1:

1. That the Guidelines "Temporary Physical Extension of Licensed Premises", attached as Appendix A to Report to Council CSBU 2023-08, be used to regulate the temporary outdoor physical extensions of licensed premises; and
2. The parking fees applicable under the existing Sidewalk Patio Program in Downtown North Bay be waived for 2023 and 2024.

Option 1 is the recommended option for the reasons outlined in this report.

Option 2:

Do not adopt the Guidelines in Appendix A.

This option is not recommended. Due to the change in regulations the City is required to provide this service. Guidelines will assist the public with an understanding of what is required by the City.

Recommended Option

1. That the Guidelines "Temporary Physical Extension of Licensed Premises", attached as Appendix A to Report to Council CSBU 2023-08, be used to regulate the temporary outdoor physical extensions of licensed premises; and
2. The parking fees applicable under the existing Sidewalk Patio Program in Downtown North Bay be waived for 2023 and 2024.

Respectfully submitted,

Name: Beverley Hillier, MCIP, RPP

Title: Manager, Planning & Building Services

I concur with this report and recommendation

Name: Ian Kilgour, MCIP, RPP

Title: Director, Community Development and Growth

Name: Margaret Karpenko, CPA, CMA

Title: Chief Financial Officer /Treasurer

Name: John Severino, P.Eng., MBA
Title: Interim Chief Administrative Officer

Personnel designated for continuance:
Beverley Hillier, MCIP, RPP
Manager, Planning & Building Services

Appendix A

Temporary Physical Extension of Licensed Premises

The City of North Bay has developed the following guidelines for approvals of temporary outdoor physical extensions of licensed premises under Section 153.1 of Regulation 746/21 of the *Liquor Licence and Control Act*, 2019, S.O. 2019, c. 15, Sched. 22

Site Plans:

All new and expanded patios are required to prepare a site plan for the review and approval of the City of North Bay. The site plan must include the following:

- The location and size of the proposed patio or patio expansion on the property, including the location of any buildings or existing patios on site
- The location of existing and proposed new pedestrian and vehicular paths of travel
- The capacity of the area to which the extension would apply allows for at least 1.11 square metres per person

In Downtown North Bay:

- Patios are supported through the City's Sidewalk Patio program. Support for the creation of the sidewalk patio is available through the Growth Community Improvement Plan. To learn more about this program visit: <https://www.northbay.ca/services-payments/building-development/growth-community-improvement-plan/>
- You are required to enter into a Sidewalk Patio License Agreement with the City of North Bay, including the provision of insurance. A template of this agreement is available here: <https://www.northbay.ca/services-payments/building-development/downtown-sidewalk-patios/>

Requirements for all locations:

- Patios are not permitted to expand into yards adjacent to residential zones
- You must have washrooms available for the use of your patrons and staff
- You must meet and maintain all required accessibility standards
- An amendment to any existing Site Plan Control Agreement will not be required.
- No smoking is permitted on patios or expanded patio areas. All requirements of the *Smoke Free Ontario Act* are required to be maintained.
- The licensee is able to demonstrate sufficient control over the area to which the extension would apply
- There is no condition on the liquor licence prohibiting a patio.
- The licensed premises would not be subject to a temporary outdoor physical extension for more than a total of eight months in a calendar year.
- The municipality shall specify the maximum duration of an approved temporary outdoor physical extension.

- An approval may be granted with respect to one or more calendar years, as specified by the municipality.
- The licensee is required to notify AGCO: [Notifying the AGCO of an Approved Temporary Outdoor Physical Extension \(Temporary Patio\) | Alcohol and Gaming Commission of Ontario](#)

- **When is a Building Permit Required?**

- When your patio is constructed more than 12 inches off the ground a building permit is required
- If you're patio requires a building permit the design of your patio **must** be completed by a Professional Engineer or Architect or other qualified professional.
- Any tent that is 225m² (2,420 ft²) or larger requires a building permit and must be engineered; most of the tents from rental agencies do come with engineered drawings for erection and anchorage. This will need to be provided with your permit application. Regardless of their size, the canopies for all tents need to be fire retardant material.
- All tents also must be setup a minimum of 10 feet from any other structure and property lines.