

Cornwall City Council

DEPARTMENT: Planning, Development and Recreation
REPORT NUMBER: 2016-29-PL-PDR
PREPARED BY: Karl Doyle, Senior Planner
REPORT DATE:
MEETING DATE: Nov 14, 2016 07:00 PM
SUBJECT: Temporary Outdoor Patios (UB 2016-26)

PURPOSE

This report is in response to the August 8th, 2016 Resolution 2016-81-CL, in where Council requested Administration to prepare a report to outline the requirements to establish temporary patios including street-side spots in the downtown areas, the "Downtown" and "Le Village" areas for the summer of 2017.

The recommendations contained within this report are to:

- i.) Inform Council of regulations and guidelines with respect to temporary outdoor patios, including street-side spots in the public realm within both the "Downtown" and "Le Village" areas; and
- ii.) Seek direction to modify the City of Cornwall's current Encroachment Agreement application process administered by the Planning Division.

RECOMMENDATION

That City of Cornwall Council receive this report, and provide further direction or action as required.

FINANCIAL IMPLICATIONS

If a street-side spot patio is added and fronting a commercial establishment, the City would lose revenue generated by the paid parking stall from April 1st to October 31st. If a vehicle was parked in a paid parking stall all day, five days a week, then the stall would generate \$1080 in a 6 month period.

BACKGROUND / DISCUSSION

The City of Cornwall would not be unique in implementing regulations to establish temporary patios including street-side spots in the public realm within a commercial area. Municipalities across Ontario have introduced and/or modified existing development application processes to allow for a commercial operator to establish a temporary patio in front of their establishment.

There was an abundance of information collected and reviewed from many sources to develop a process that would best suit the City of Cornwall. The following Cities and Municipalities were surveyed: Ottawa, Toronto, Hamilton, Brampton, Vaughan, Kingston and Brockville.

Many Ontario municipalities have regulations in place to permit patios on the public right of way, and there exists a variety of measures and controls which range in complexity. Best practice shows that there are some fundamental tools to permit and regulate temporary/permanent patios, which include;

- A By-law under the Municipal Act
- An application process (annual renewal)
- Encroachment Agreement
- Compliance with standards and design guidelines
- Fees and liability insurance
- Regular monitoring and inspections

Based on the aforementioned research, and following consultations with other City departments (Planning, Building, Engineering, Traffic, Public Works and Finance), it is suggested that Council approve modifying the City's existing Encroachment Agreement process which is administered by the Planning Division.

Historically municipal staff has reviewed and approved patios located on public lands fronting a commercial establishment on a case by case basis and the current process should remain status quo. Key City staff reviews each application to ensure the following key items are not negatively impacted:

- Pedestrian Pathways
- City Infrastructure
- Barrier Free Access
- Fire Safety
- Compatibility with the Built Form

A standards and design guideline section has been added to the City's Encroachment Application process specifically catered for temporary patios located on street-side spots within both the "Downtown " and "Le Village" areas (refer to the attached). The new design standards have been taken from a variety of other Ontario municipalities design standards. Maps have also been included delineating both areas, however, the commercial areas in question are not static and may be extended or reduced upon direction from Council.

The fee for the Encroachment Agreement application is a one time cost of \$370. Various Ontario municipalities charge in-between \$200 to \$1000 for the same or similar process. The City of Cornwall's Encroachment Agreement application fee is in line with other Ontario municipalities.

The Encroachment Agreement process is a tool that the City currently uses to approve proposals for exterior commercial patios, signs and/or structures that encroach on public property.

Encroachment Agreements are formalized legal agreements that are entered into by the City and a property owner of a proposed or existing encroachment which in turn is registered on the owner's title "Grantee". The intent of the agreement is to formally recognize and establish terms and conditions specific to the encroachment that will allow for a structure to remain indefinitely or temporarily on public lands.

Each application submitted to the Planning Division is circulated to various City Departments for review (Building, Engineering, Traffic, Public Works and Finance). Once commentary is received, and if there are no objections, then Planning staff prepares a report for Council explaining the nature of the proposed encroachment along with staff's recommendations. If Council adopts the recommendations, then a legal binding agreement is prepared and executed. (Refer to the Encroachment Agreement Process Flowchart).

The City currently has Encroachment Agreements with Schnitzels, Gemini Café and Truffle Burgers all located on Pitt Street in the "Downtown" area. The Planning Division has received and approved two (2) patio Encroachment Agreements in the last decade, none of which encumber a street-side paid parking stall.

CONCLUSION

However desirable, outdoor patios should only be allowed where specific right of way widths and configurations can accommodate a patio in a manner that is safe for customers, and maintain a comfortable, safe and accessible sidewalk /path of travel for all users, including people with disabilities. Notwithstanding the social and economic benefits and popularity of outdoor patios, public safety and operational maintenance are paramount.

The City's Official Plan policies concerning both downtown areas encourage the City to reinforce, promote and develop as places for pedestrian interaction. It is worth noting that during the Pitt Street reconstruction process in the 1990's, the public area between First and Third Street was specifically designed to accommodate patios and encourage public use.

It is important to note that there was no negative commentary received by surveyed municipalities regarding establishing street-side patios in their commercial districts. Keeping the commercial operator/applicant in mind, the proposed application requirements and associated one-time fee will not be as stringent and/or financially restraining for the applicant as compared to other municipalities.

It is this author's opinion that the proposal brought forth by Council is a positive initiative which will bring vibrancy to both Cornwall's downtown areas and increase service options for commercial establishments throughout the patio season.

ACCESSIBILITY IMPACT

The City will assess the proposed location based on operational, accessibility and safety considerations.

Motion to receive Report 2016-29-PL-PDR.

Moved By: Denis Carr, Councillor

Seconded By: Justin Towndale, Councillor

Motion Carried

ATTACHMENTS



ENCROACHMENT AGREEMENT - DRAFT.pdf

Approval

November 09, 2016 09:54 AM Karl Doyle
Zoning and Site Plan Coordinator

A handwritten signature in black ink, appearing to read 'Karl Doyle', written over a horizontal line.

November 09, 2016 09:55 AM Ken Bedford
Supervisor, Planning Division

A handwritten signature in black ink, appearing to read 'Ken Bedford', written over a horizontal line.

November 09, 2016 09:59 AM Mark A. Boileau
General Manager, Planning, Development and Recreation

A handwritten signature in black ink, appearing to read 'Mark A. Boileau', written over a horizontal line.