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**TO:** **GENERAL COMMITTEE**

**SUBJECT:** **PATIOS EVERYWHERE PROGRAM – 2020 PATIO SEASON**

**WARD:** **ALL**

**PREPARED BY AND KEY CONTACT:** **M. BANFIELD, RPP  
DIRECTOR OF DEVELOPMENT SERVICES**

**SUBMITTED BY:** **M. BANFIELD, RPP  
DIRECTOR OF DEVELOPMENT SERVICES**

**GENERAL MANAGER APPROVAL:** **A. MILLER, RPP  
GENERAL MANAGER OF INFRASTRUCTURE AND GROWTH  
MANAGEMENT**

**CHIEF ADMINISTRATIVE OFFICER APPROVAL:** **M. PROWSE, CHIEF ADMINISTRATIVE OFFICER**

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#### **RECOMMENDED MOTION**

1. That the application process and operating criteria for the Patios Everywhere Program as outlined in Appendix “A” to Staff Report DEV017-20 be approved for the 2020 patio season ending on October 15, 2020 and that the provisions governed in Business Licensing By-law 2006-266, as amended, shall not apply.
2. That the application process and operating criteria for the Refreshment Vehicle Program as outlined in Appendix “B” to Staff Report DEV017-20 be approved for the 2020 patio season ending on October 15, 2020 and that the provisions governed in Business Licensing By-law 2006-266, as amended, shall not apply until after October 15, 2020.
3. That any City of Barrie fees associated with the Patios Everywhere Program and Refreshment Vehicle Program be waived for the 2020 patio season ending October 15, 2020.
4. That any fees previously paid for a seasonal patio license for the 2020 patio season be refunded.

#### **PURPOSE & BACKGROUND**

5. The purpose of this report is to recommend approval of the Patios Everywhere Program as well as the use of Refreshment Vehicles by restaurants, where patios are not an option for the 2020 patio season ending October 15, 2020.
6. Due to impacts experienced by the global response to the COVID-19 pandemic restaurants have been limited to take out services only since the middle of March 2020.
7. As restrictions on restaurant operations ease in the coming months, the operational aspects of restaurants are anticipated to be impacted by safety measures required to address such matters as physical distancing in a restaurant setting. It is anticipated this will result in a reduced patron capacity for restaurants.

8. As warmer weather and patio season approaches the use of patios is being explored as a way in which to distribute restaurant capacity while meeting physical distancing measures, thus allowing restaurants to re-open dine in services once restrictions have been eased by the Provincial government.
9. The Patios Everywhere Program is intended to address patios that are outside of the Business Improvement Area (BIA) / City Centre. A separate Staff Report INF003-20 addresses the outdoor patio program for properties within the BIA / City Centre.

#### Existing Policy

10. Outdoor Patios are governed by Section 4.2.1.10 of the City's Zoning By-law 2009-141 as amended.
11. This section outlines the following requirements for outdoor patios including a limitation on the gross floor area of the patio to a maximum of 50% to the main use, parking standards are met in accordance with the by-law, and if a rooftop patio, guard rails and conformity with the Ontario Building Code is required.
12. The Zoning By-law does not restrict the location of the patio. As such, patios associated with existing legal restaurants, could be located in parking areas, side yards or front yards, provided the above noted gross floor area, parking, Ontario Building Code, Fire Safety and business license requirements are met.
13. In addition to the provisions in the zoning by-law a business license is required for Restaurants / Tavern patio extensions on private properties, as governed by By-law 2006-266 as amended.
14. The requirements for a business license include various items such as: health certificate of inspection, a liquor license from the Alcohol and Gaming Commission of Ontario (AGCO), insurance, zoning approval, site plan drawing as well as fire and police inspections.

#### Patios Everywhere Proposal for the 2020 Patio Season

15. The Patios Everywhere Program is suggested to follow the framework and operating criteria as outlined in Appendix "A" to this Staff Report DEV017-20 for the 2020 patio season ending on October 15, 2020. After this time, provisions and fees contained within the Business Licensing By-law 2006-266 would apply again.
16. From a zoning by-law perspective, the parking requirement for the patio would need to be evaluated on a site-specific basis. However, as the parking ratio for restaurants is based on capacity i.e. 1 space per 4 patrons, it is anticipated that the existing and approved capacity would be spread across the existing restaurant and the patio. Therefore, parking can be addressed and reviewed with each application. Essentially, if a 50 patron restaurant exists today in conformity with the zoning by-law, that restaurant could spread the 50 patrons out between inside and the patio, provided parking is maintained. If the patio encroaches on parking spaces, overall capacity may need to be reduced.

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Special Event Patios

17. In situations where a patio cannot be adjoining an existing restaurant the only option is a Special Event Permit; subject to all regular requirements including food storage, handling and sales inspections by the Simcoe Muskoka District Health Unit (SMDHU). Given the stretched resources due to COVID-19, it will be a challenge for the Health Unit to prioritize patios inspections with existing commitments, but they will work with the City in this regard.
18. In this instance, the usual requirements for Patio Extension – Municipal Property under By-law 2006-266 as amended and the requirements therein shall apply.

Refreshment Vehicles – Motorized (Food Trucks)

19. A food truck – type service may be an option for restaurants that have a licensed refreshment vehicle and such vehicle has all required health and safety inspections required by the SMDHU.
20. All permissions to serve alcohol are subject to approval by the AGCO and may not be possible for Refreshment Vehicles.
21. Permission for these vehicles would be provided in accordance with the operating criteria outlined in Appendix “B” to Staff Report DEV017-20.
22. Staff are recommending that any associated fees for these vehicles be waived for the 2020 season ending on October 15, 2020. After which provisions and fees contained within Business Licensing By-law 2006-266 would apply again.
23. Staff are exploring a dedicated location for Food Trucks, using a few parking stalls in the Chase McEachern Parking Lot, or similar locations, as part of the Patios Everywhere Program.

**ANALYSIS**

24. There is no significant change proposed to the current parameters surrounding patios; the Zoning By-Law is quite reasonable for this approach and Staff are comfortable with the interpretations needed to achieve the intent of the Program.
25. The requirements for site inspections, building and fire safety measures, public health and insurance certificates remain the same.
26. As a result of the temporary suspension of the Business By-law 2006-266 provisions related to patios and refreshment vehicles implementation and enforcement of matters under the Program would be the responsibility of and administered through the Development Services Department, not Enforcement Services. Therefore, any enforcement of the operating criteria detailed in Appendix “A” and “B” to Staff Report DEV017-20 would be undertaken by the Zoning Officers through the authority under the *Planning Act*.
27. The Program is designed to support an online application submission and issuance of approvals would move to online entirely and site inspections can safely take place outside or inside (if applicable/necessary) while maintaining physical distancing measures.
28. As restaurants are not currently open for dine in options, Staff can work with businesses to complete the Patio application process during this time to ensure approvals are in place so they are able to open as soon as restrictions are eased by the Provincial government.

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Summary

29. Staff are confident that the parameters set up for the Patios Everywhere and Refreshment Vehicle Programs will provide flexibility to restaurant owners for the patio season for 2020 while at the same time ensuring safety standards and measures remain in place.

**ENVIRONMENTAL AND CLIMATE CHANGE IMPACT MATTERS**

30. There are no environmental and climate change impact matters related to the recommendation.

**ALTERNATIVES**

31. There are alternatives available for consideration by Council:

**Alternative #1** Council could choose to not approve the Patios Everywhere Program for the 2020 patio season.

This alternative is not recommended as the ability to support the restaurant businesses always, but in particular at this point in time, is an essential contribution to supporting businesses in the City of Barrie.

**Alternative #2** Council could choose to approve the Patios Everywhere Program for the 2020 patio season but not waive the fees or refund previously paid patio fees.

This alternative is not recommended as there will be other costs associated for a restaurant to establish a patio and the City fee is within the City's control to waive and would assist businesses in exploring temporary options for food service delivery this patio season.

**FINANCIAL**

32. The proposal to waive all fees associated with this program will be a cost to the organization. The use of technology and streamlining the review process is intended to keep costs to a practical minimum for business owners.
33. The actual cost to the municipality will depend on the uptake but the normal fees for the services described in this report include:
- Exemption from full site plan approval: \$1,058.58
  - Patio License: \$236.25
  - Refreshment Vehicles – Motorized: \$236.25
  - New LCBO Application Fee: \$50.00
34. The refunding of approximately 20-30 previously issued patio licenses (total ranging between \$4,725 - \$7,088) for the 2020 season is a gesture of good will and a matter of equality for all restaurants during this time.

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**LINKAGE TO 2018–2022 STRATEGIC PLAN**

35. The recommendations included in this Staff Report support the following goals identified in the 2018-2022 Strategic Plan:
- ☒ Growing Our Economy
    - i) Make it easier to do business.
    - ii) Helping businesses grow.
  - ☒ Building Strong Neighbourhoods
    - iii) Create great public spaces.
  - ☒ Offering Innovative and Citizen Driven Services
    - iv) Use technology to deliver services more effectively
36. In accordance with Council's goals, approval of the Patios Everywhere Program will support local restaurants. The dedicated process is intended to continue to be easy to navigate. The additional patio space across the City would provide options to create public spaces and to safely adapt during COVID-19 times. The use of the online APLI application process for this program is essential with limited in person contact being permitted at this time.

Attachments: Appendix "A" – Requirements for Patios Everywhere Program  
Appendix "B" – Requirements for Refreshment Vehicle Program

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## APPENDIX "A"

### Requirements for Patios Everywhere Program

#### Purpose:

The following document outlines the requirements for the Patios Everywhere Program for the 2020 patio season.

Existing, legal restaurants can take advantage of warmer weather by offering outdoor dining experiences. The duration of patio season typically runs from April 15 to October 15.

The City will review Patio Everywhere applications and design concepts from businesses to ensure universal accessibility, public safety (including Fire and separation from traffic) and the streetscape experience are enhanced and not negatively impacted by the introduction of a patio.

City Bylaw 2006-266 as amended (license, regulate and govern businesses) generally governs matters addressed in this document, but for the 2020 season shall not apply until after October 15, 2020.

All applications are required to comply with the *Accessibility for Ontarians with Disabilities Act* (AODA).

#### Application Process

City staff are available to assist if needed, however we believe most applicants should be able to complete the process on their own. Email [patioseverywhere@barrie.ca](mailto:patioseverywhere@barrie.ca) for assistance.

The process to establish a patio consists of these steps:

1. Apply online through the City's APLI portal. Select "Exemption from full site plan approval" as the application type.
2. Upload all required documentation:
  - Site Plan
  - Health Certificate of Inspection
  - Demonstration of an application for a Liquor License, if applicable
  - City of Barrie Business License for main restaurant – note that a non-licensed patio can proceed prior to obtaining a liquor license as a means of opening faster
  - Letter from the property owner authorizing the proposed patio use
  - Copy of Current Liability Insurance

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- General Liability Insurance from an insurer licensed in the Province of Ontario for \$2,000,000 per occurrence with an aggregate limit of no less than \$5,000,000 to the Corporation of the City of Barrie against any liability for property damage or personal injury, negligence including death which may arise from the applicants operations under this agreement. The Corporation of the City of Barrie must be included as an “Additional Named Insured”. The Commercial General Liability shall contain Cross Liability and Severability Clauses and Products & Completed Operations coverage including a standard contractual liability endorsement.
3. Arrange for inspections by City of Barrie staff (Zoning, Police, Fire)

### **Patio Location Considerations**

#### On Street Patios:

ROWA Permit would be required like in the BIA / City Centre patios if proposed on a City street

#### Obstructions (Waste/Recycle Bins, Parking Pay & Display, Planters, Light poles etc. )

City staff and utility companies need space to access, repair or maintain trees/plants, fire hydrants and connections, electricity elements, natural gas connections, and other street assets for residents, businesses and visitors. City street must serve everyone including key services such as emergency services and public transit. Street features must be able to be used for their intended purpose, accessed and maintained.

The City and all public utility agencies retain the right of access to the approved Patio area for the installation, maintenance and repair of pipes, cables, wires, poles, hydrants, etc., as necessary. In case of emergency, no notice will be given. For scheduled work, a minimum notice of forty-eight (48) hours will normally be given.

The City retains a right of access over, to and upon a patio for emergency vehicle access.

Waste and Storage: Patio operators shall maintain the Patio area, and the immediately adjacent area, in a clean and safe condition at all times. Refuse containers are not permitted within the Patio area but portable service carts may be used for collection and transport to the associated restaurant. The storage of waste is not permitted.

#### Patio Design Details

Patios shall be comprised of structural, functional, and decorative features. To ensure public safety and general aesthetic continuity, the following design details provide the minimum requirements for various features within a patio. The City encourages creativity and the development of unique outdoor dining spaces within the requirements provided.

The patio shall be constructed and maintained by the applicant as per the construction guidelines, and must be compliant with the *Accessibility for Ontarians with Disabilities Act* (AODA).

An entryway of at least 1.75 m must be provided to the patio, and where possible, should be aligned with the entrance to the corresponding establishment. When entrances cannot be aligned, they should be provided in close proximity to each other to ensure ease of movement and service between the establishment and the patio.

Patio furnishings, fences and other Patio improvements must be removable and not permanently fixed in place. All objects must be contained within the approved Patio area and removed during the off-season or after the Patio ceases operation. The street, sidewalk and municipal property (if used) must be restored to its original condition to the satisfaction of the City.

The design of the patio structure should not inhibit the adequate positive drainage of storm water runoff to the street.

#### Patio Enclosure Fencing

Fencing of a Patio must form a fully enclosed perimeter. The fencing should appear 'open'. Fencing shall meet the requirements of the Alcohol and Gaming Commission of Ontario (AGCO) if applicable. Fencing material must be shown on the site plan. Wrought iron style is the most desirable, however given the circumstance, any barrier that safely encloses will be considered. Patio fencing must be not less than 1.07 metres in height as per AGCO regulations. The fencing cannot be anchored into the paving stones or sidewalk. The fencing must be weighted either footplates or stable mass planter boxes. Patio fencing shall be supported by metal foot plates and shall not be designed to penetrate the surface of the sidewalks (i.e. no bolts/brackets). Alternative supports must be used such as planters, weights, etc.

Open guardrails are encouraged to reduce the risk of high winds using the guardrail to move the patio structure. Self-supporting plates shall have no parts of the fence create a trip hazard and do not project beyond the limits of the permit area.

Fencing shall not extend past the permit area, or attached to trees, street elements or utilities.

Fencing shall be curved or angled at street corners for unimpeded pedestrian movement and vehicle sightlines.

#### Minimum Clearance requirements from Patio Enclosure Limits

- All hydrants offset 1.5 metres
- Gas assets or meters 0.6 metres
- All parking pay-display units 1.0 metres
- All bollards defining secondary walkway 1.75 metres
- All waste receptacles 3.0 metres



- Mid-block Pedestrian Crossings 5.0 metres centered
- Utility vaults 1.5 metres

Electrical power cords or any device that cross any travelled portion of the property are not permitted.

No signs or advertising within a Patio shall be permitted with the exception of a menu and no smoking sign(s). A single menu can be posted on the fencing but must be no larger than 40cm (16 inches) by 50 cm (20 inches) in size.

Permit holders shall ensure that all umbrellas are at least 0.8 metres from any curb face. All shade umbrellas may project into the pedestrian walkway to the lesser of half the umbrella's width or 1.5 metres. The lowest edge of any umbrella must be at least 2.1 metres above the sidewalk surface. No patio permit holder shall place umbrellas such that they overhang the pedestrian walkway at a height of less than 2.2 m, and such umbrellas must be closed during rain events and not cause water to drip onto the pedestrian walkway.

#### **Patio Site Plan Required Information Minimum Information Requirements**

##### Patio Site Plan – Required Information

To assist with the Patio Site Plan design, the applicant is requested to provide a site plan, properly labelled with the following minimum information:

- 1) The location and dimension of the building establishment, the entrances & exits and washrooms;
- 2) The location and use of the adjacent buildings, the entrances and exits;
- 3) The location and dimension of the patio, the entrances & exits;
- 4) The area of the patio (in square meters);
- 5) Location and dimension of any enclosures, umbrellas/tents, awnings, etc.;
- 6) The location, height and construction material to be used for the boundary fence, gate location and width of gate(s);
- 7) Location of fire extinguishers;
- 8) Location of table, chairs, bars, stages, etc.;
- 9) Expected occupant load;
- 10) Location of ALL municipal services and/or assets within the Patio or close proximity (e.g. location of curbs, municipal parking spaces to be utilized, parking meters, sidewalk, hydrants, storm sewer grates, manholes, trees and diameter of trees etc.), all below grade and above grade utilities including below grade chambers/vaults and hydro poles fire hydrants, along with distances between the Patio and services/fixtures;
- 11) The construction and design shall consider the following matters to be addressed on the site plan:
  - a) Location of services such as hydro, water and gas;
  - b) Railing installation, height, construction;
  - c) Impact on public sidewalk if any;
  - d) Accessibility;
  - e) Installation of any other fixtures to premises

- or lands; f) Maintenance of City improvements, such as trees and shrubs, if applicable; g) Liquor License requirements; h) Road Right-of-Way requirements;
- 12) Proposed elements and their location and dimensions (e.g., tables, chairs, umbrellas, fencing/railings, hanging fence planters, standing planters, to be located in the permit area;
  - 13) Pedestrian sidewalk measurements: distance between outer edge of proposed permit area to nearest object or back of the curb;
  - 14) Amount of parking provided on site, including the amount of parking spaces being occupied by the proposed patio; and,
  - 15) Setbacks from the property lines to the proposed patio.

#### Minimum Information Requirements for Outdoor Patios

This information is included for applicant's consideration in order that information requirements and responsibility are fully understood.

Proposed patios at-grade or ones that are not structurally supported are not subject to the Building Code. However, proposed outdoor patios that are elevated and require structural support are subject to the Building and Zoning Department review and applicable fees.

#### Building-side Patio Design

Attached to the building (with the owner's consent). Patio Enclosure shall be weighted and not anchored into paving stones.

#### Curb Side Patio Design

Secondary Walkways required around Patio to be 1.75 m in width minimum.

Installation of patios on corner lots where sight lines may be impacted due to impaired vehicle and pedestrian sightlines may not be permitted.

Obstruction of underground utilities, drainage flows or fire department connections. Applications must be accompanied with a site plan that describes and depicts all underground and above grade utilities, drainage flows and municipal fixtures such as fire hydrants, parking meters, trees and grates, catch basins, manholes etc. Due to the circumstances, certain proposed patios may not be permitted due to required access to the utilities or their proximity. Applicants will be required to demonstrate that no municipal fixture or utility is being impacted and how the drainage flow is maintained. In the event that a fixture or utility appears to be impacted, written approval is required from the agency or department responsible for the fixture.

Maintenance of a 1.75 m sidewalk (municipal or by temporary construction) for pedestrian movement. The minimum width for the City sidewalk sweeper to maneuver is approximately 1.5 m. Therefore all outdoor patios must maintain a sidewalk width of a minimum 1.75 m. Pedestrian movement should be considered

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first and foremost in all designs and in order to maintain maximum widths for pedestrians in the area in order to support visitor use.

#### Waste Pick Up

Patios should not interfere with waste pick up for the property.

#### Liquor License

If a Liquor License is desired by the business owner, it is administered through the Alcohol and Gaming Commission of Ontario (AGCO), and not the City of Barrie. Through the AGCO approval process, the City is circulated in the review of the application. The 15 day placard requirements by the AGCO would apply. The application and issuance of a Liquor License is a separate process from the application for a patio. However, an approved liquor license for the outdoor patio is required to be submitted at the time of application for the patio.

#### Temporary Sidewalk (if applicable)

A Professional Engineer must certify the design of the Extension of the Temporary Sidewalk for safety and load bearing design, if applicable. (Note: The applicant must certify that the at-grade Patio or Sidewalk by-pass walkway is constructed in accordance with the City's standard.)

#### Noise

No person shall permit or allow any sound contrary to the provisions of the noise control by-law for the City.

No person shall operate any amusement device or game within any outdoor patio area.

#### Hours of Operation

No person shall allow any person to enter or re-enter the outdoor patio area after 10:30 p.m. and shall ensure that no person is permitted to be in or remain in the outdoor patio area after 11:15 p.m.

No person shall provide or allow any entertainment in the Outdoor Patio area licensed or required to be licensed under this section after 11:00 p.m.

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**APPENDIX “B”**

**Requirements for Refreshment Vehicle Program**

**Purpose:**

The following document outlines the requirements for the Refreshment Vehicle Program for the 2020 patio season.

City Bylaw 2006-266 as amended (license, regulate and govern businesses) shall take precedence over this document, but for the 2020 season shall not apply until after October 15, 2020.

**Application Process**

City staff are available to assist if needed, however we believe most applicants should be able to complete the process on their own. Email [patioseverywhere@barrie.ca](mailto:patioseverywhere@barrie.ca) for assistance.

The process to establish a patio consists of these steps:

1. Apply online through the City’s APLI portal. Select “Exemption from full site plan approval” as the application type.
2. Upload all required documentation:
  - Health Certificate
  - Vehicle Identification Number
  - Ontario License Plate # / Ownership
  - Vehicle Safety Standards Certificate
  - Propane Inspection Certificate (where applicable)
  - Copy of Current Liability Insurance

**Requirements:**

To accommodate elements of the Refreshment Vehicle Program for the 2020 season the following operating criteria shall apply.

No person shall stop, park or otherwise carry on business from a motorized refreshment vehicle for the purpose of selling or offering for sale any refreshments or product at a distance of less than 50 feet from any intersection, unless authorized by the City to do so.

No person shall obstruct traffic in any way on any street.

No person shall operate a motorized refreshment vehicle within any Park unless authorized to do so by the Development Services Department.

Refreshment vehicles cannot operate after 11:00 p.m.