



MANAGEMENT REPORT

Date: May 8, 2023
To: Mayor and Members of Council
From: Chris Bantock – Deputy Clerk
Report #: COU23-059
Attachments: None

Title: Alcohol and Gaming Commission of Ontario (AGCO) Policy Update – Temporary Patios on Private Property

Objective: To seek delegated authority for staff to approve temporary patios on private property.

Background: As of January 1, 2023, liquor license holders located in municipalities no longer need to apply to the Alcohol and Gaming Commission of Ontario (AGCO) for a temporary patio. If a temporary patio has been operating for the past two (2) years during the COVID-19 pandemic under the Registrar’s extension policy, the patio will no longer be approved under the new Registrar’s policy.

Staff recently became aware, and verified with the AGCO, that the above policy change applied not just to patios on City property but also to those on private property. As a result, this report is being brought before Council to consider the City’s transition to approving temporary patios on private properties.

Analysis: Under the new AGCO policy, any business who wishes to have a temporary patio on private property must obtain approval from their municipality. Once approval has been received from the municipality, which can be a letter, email or through a licencing program, the business is required to provide confirmation of approval to the AGCO through their portal. The AGCO will no longer accept applications or otherwise approve temporary patios for licensees in municipalities. If a business with a temporary patio applies for a liquor license with the AGCO and does not have municipal approval, a license will not be granted.

As defined by the AGCO, temporary in this case refers to the use of the patio being for up to 8 months in a calendar year. Businesses with patios on private property can also have permanent patios which do not require approval by the municipality and can still be applied for directly with the AGCO. Businesses also have the option of switching from temporary to permanent to bypass the municipal approval process. Given that

information is not available with respect to the number of temporary versus permanent patios on private property in the City, staff are not proposing to implement a licensing system at this time. As of the writing of this report, only one business has reached out to staff to inquire about receiving approval of their temporary patio on private property.

The City currently has an Outdoor Patio Program for businesses who wish to have temporary patios on municipal property, including pop up patios, boardwalk extensions and standard patios. Through the Delegation of Authority By-law 135-2017, staff have “authority to approve use of municipal property, boulevards or sidewalks for outdoor patios and other matters including but not limited to merchandising and sale of goods and materials. This includes authority to sign agreements with third parties for said use as outdoor patios and merchandising and sale”. Given the new AGCO policy, staff are seeking to add delegated authority to include temporary patios on private property.

Should this delegated authority be approved, the Clerk’s Office would act as the main point of contact for temporary patios on private property. Businesses would be responsible for contacting the Clerk’s Office to receive a letter of approval by submitting supporting documents for review by the Clerk’s Office, Building, Planning, and Fire Services. Subject to no concerns, approval would be issued to the business owner.

Financial Implications:

Financial impact to current year operating budget:

There is no proposed impact to the current year operating budget.

Financial impact on future year operating budget:

Should a licensing system be considered in the future then there could be the opportunity to generate additional business licensing revenue.

Insurance considerations:

Staff intend to request proof of insurance from businesses seeking approval for a temporary patio on private property. Following recent recommendations from the City’s Insurer, this would require minimum liability of \$2 Million as the temporary patios would be located on private property. The intent would not be to name the City as additional insured, rather simply to confirm that the entity carries a minimum level of insurance, as a good business practice to protect their patrons.

Alignment with Strategic Priorities:

Strengthening our Plans, Strategies and Partnerships

Partnering with the community to make plans for our collective priorities in arts, culture, heritage and more. Communicating clearly with the public around our plans and activities.

Alignment with One Planet Principles:

Equity and Local Economy

Creating safe, equitable places to live and work which support local prosperity and international fair trade.

Staff Recommendation: THAT the Delegation of Authority By-law 135-2017, as amended, be further amended, to delegate authority to the City Clerk, or Deputy Clerk, or Director of Corporate Services to approve the use of temporary patios on private property.

Prepared by:

Chris Bantock, Deputy Clerk

Recommended by:

Karmen Krueger, CPA, CA, Director of Corporate Services

Joan Thomson, Chief Administrative Officer