



REPORT

Council

Meeting Date: February 27, 2023

FROM: Planning Services Department
Economic Development
Transportation and Engineering

DATE: February 14, 2023

SUBJECT: 2023 Commercial Patio Initiative

LOCATION: Town-wide

WARD: Town-wide

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RECOMMENDATION:

1. That the staff report titled 2023 Commercial Patio Initiative, dated February 14, 2023, be received.
2. That staff be authorized to implement the 2023 Commercial Patio Initiative with operations starting on May 1, 2023 and ending on November 1, 2023.
3. That staff be authorized to make town lands in and adjacent to commercial areas available at nominal cost to enable the provision of temporary commercial services outdoors, including patios or pop-up facilities associated with existing restaurants and retail businesses, subject to the permitting requirements.
4. That staff be authorized to issue temporary exemptions from providing required parking under section 40 of the *Planning Act* granted at nominal value to accommodate outdoor patios or outdoor display areas on private property, subject to the permitting requirements.
5. That the Community Development Commissioner be authorized to sign any agreements relevant to the 2023 Commercial Patio Initiative.

KEY FACTS:

The following are key points for consideration with respect to this report:

- Commercial patios and bistros located throughout Oakville contribute to the liveability of our community, activate the streetscapes, add vibrancy to our commercial districts and provide sought after outdoor dining opportunities.
- The proposed 2023 Commercial Patio Initiative is a temporary program to promote the continuation of Oakville's thriving patio community while staff work to develop a permanent seasonal patio program for launch in 2024.
- The 2023 patio initiative includes continued recovery measures to reduce barriers to participation as well as addressing cost recovery measures for program administration. A separate report ('Appendix J: 2023 Commercial Patio Initiative') was prepared in response to the 2023 Budget Committee request for recommendations on scaled subsidy options for the 2023 patio initiative. This report was provided to the 2023 Budget Committee on February 21, 2023 for consideration in the final 2023 budget.
- A few changes to the 2023 patio initiative include: setting the patio operation dates from May 1 to November 1, 2023; reinstating the permit fees for patios, bistros and outdoor displays; and requiring the installation of safety barriers for on-street patios.
- Over the next six months staff will continue developing a permanent Seasonal Patio Program. Staff will consult with stakeholders, complete best practice reviews, and create a program framework. Staff will present the recommended Seasonal Patio Program to Council for consideration and endorsement as part of the 2024 budget process.

BACKGROUND:

Active commercial patios and bistros located throughout Oakville contribute to the livability of our community, activates the streetscapes, adds vibrancy to our commercial districts and provides outdoor dining opportunities.

Patios and bistros in Oakville have been an evolution, starting with one-off requests to set-up patios on the boulevard, to testing on-street installations during the pilot program (2014-2019) to the quick action Commercial Recovery Initiative (CRI) to maximize opportunities in response to the pandemic restrictions (2020-2022). Refer to **Appendix A** for a chronology of commercial patio initiatives in Oakville.

For the 2023 patio season, staff is requesting Council authorization to extend the temporary patio permissions on municipal land and private commercial sites as outlined in the next section of this report.

Staff will continue a Seasonal Patio Program for implementation in 2024. Over the next six months, staff will consult and engage with stakeholders and the public, complete the best practice review of initiatives in other municipalities, establish program administration and logistics, and finally present the recommended Seasonal Patio Program to Council for consideration and endorsement later in 2023.

COMMENT/OPTIONS:

Emerging from the pandemic, small businesses remain in a period of economic recovery. High inflation and rising interest rates have placed additional strain on service-based businesses. Preliminary feedback from Oakville restaurant owners indicates the introduction of costs associated with patio program safety requirements and other operational costs will serve as a barrier to participation in the 2023 program.

The proposed 2023 Commercial Patio Initiative is a temporary program to promote the continuation of Oakville's thriving patio community while staff work to develop a permanent seasonal patio program.

The following sub-sections highlights and details five program components for 2023:

Dates of Operation

For the 2023 initiative, participants will be able to operate the patio from May 1 through to November 1, 2023. Approved participants will be permitted to start the installations up to 4 days prior and complete removals up to 4 days after the initiative closure. Application forms and details will be available on the town website in early March. These operation dates are applicable to all patios on municipal land and on private commercial sites participating in the initiative.

While during the CRI (2020 to 2022) an earlier start date and extensions were permitted due to the prohibitions on indoor dining, these extended timelines conflicted with existing snow-clearing contract dates and required roadway and boulevard maintenance work of de-salting and sweeping.

Reinstating a Permit Fee

For the 2023 initiative, a permit fee of \$785 for patios, \$262 for bistros and \$110 for outdoor displays has been included in the 2023 Rates and Fees Bylaw to cover a portion of the cost for staff resources required to deliver the initiative. These fees are applicable to all patios, bistros, and outdoor displays on municipal land and on private commercial sites participating in the initiative.

These fees reflect those applied during the pilot patio program (2014 to 2019), with a 5% indexing for patios and bistros. The amounts reflect staff time for application intake, processing, site visits, preparing agreements, issuing permits/permission,

site inspections and, if needed, enforcement activities. Of note, this does not include additional staff time and resources contributed from Planning, Communications, Economic Development, Building, Fire, Municipal Enforcement, and Roadway Operations.

Maintain Minimum \$2 million Liability Insurance Coverage

Based on a best practice scan of patio programs in other municipalities, guidelines from the Ontario Traffic Council (OTC) and to align with insurance requirements in other town departments granting permission to use town lands (transportation, parks, and recreation), staff considered increasing the liability insurance requirement to \$5 million for operators with patios located in on-street parking spaces. A \$5 million liability requirement better protects the town from legal exposure if any incidents were to occur, as the patios are located on town property and the town would likely be included in any possible lawsuits.

Based on consultations with local BIA representatives, the proposed increase of liability insurance coverage for on-street patio operators to \$5 million would likely result in higher premium costs to the operators and limit their ability to participate in the patio program. Staff determined that based on the addition of safety barriers to the on-street patios in 2023 the insurance coverage requirements will remain unchanged for this year. Further review will be undertaken with recommendations brought forward with the permanent Seasonal Patio Program report later this year.

Continued Use of On-Street Parking Stalls for Patios

Starting with the patio pilot program (2014) restauranteurs were given the opportunity to incorporate on-street parking stalls into their seasonal patios. To encourage the usage, the town waived the fee to 'rent' the stall(s). The fee was waived throughout the pilot program and the CRI program years from 2014 to 2022. With the increasing popularity of outdoor dining, the requests to extend patios into the on-street parking stalls has also increased with a total of 31 stalls used in 2022. Based on recent discussions with BIA staff and business owners, the request for new patio extensions into on-street parking stalls will likely increase.

Require Safety Barriers and Platforms for all On-Street Patios

In 2022, the Ontario Traffic Council released [Restaurant Patio Guidelines within the Right of Way](#) consisting of best practices and safety standards for accommodating patios in parking spaces (of note, Oakville staff formed part of the working group).

The intention of applying these guidelines is to ensure that universal accessibility, public safety, and the streetscape experience are enhanced and not negatively impacted by the introduction of patios within the right-of-way. The standards include the installation of a platform (with railings) that creates a flush condition with the boulevard for accessibility and also requires the installation of safety barriers for protection in case of a vehicle strike.

A patio platform has been a requirement for the installation of on-street patios since the launch of the pilot program in 2014 and continues to remain the responsibility of the owner to provide, whether independently constructed to the satisfaction of town staff or procured from a vendor specializing in on-street patio systems.

For the 2023 patio initiative, safety barriers must also be incorporated into the patio design and installation. Town staff are working with vendors and fabricators to procure barriers that meet the safety standards, which will be installed like 'bookends' at either end of the patio. These safety barriers must be positioned within the boundary of the approved patio area and cannot encroach into the abutting parking spaces on either side. As a result, there will be a slight reduction in the total patio area. The patio enclosure / railing will still be required. For those renting a platform system, the safety barrier should already be incorporated.

Staff recognize the installation of the safety barriers is an additional cost for patio operators. For the 2023 patio initiative, the procurement and installation of safety barriers for on-street patios will be undertaken and funded by the town.

Creating a Seasonal Patio Strategy

Staff will continue developing the permanent Seasonal Patio Program for implementation in 2024. Over the next six months, staff will consult and engage with stakeholders and the public, reflect on inputs and feedback from the pilot and CRI patio programs, complete the best practice review of initiatives in other municipalities and patio standards documents, determine program parameters (roles, responsibilities, operations, administration, etc.), determine operating costs and participation costs, and ultimately create a comprehensive program framework for a perpetual seasonal patio program.

The recommended Seasonal Patio Program will be presented to Council for consideration and endorsement in Q3 of 2023.

CONSIDERATIONS:

(A) PUBLIC

Feedback received from businesses, residents, patio patrons and visitors demonstrates that patios and bistros located throughout Oakville contribute to the liveability of our community, activate the streetscapes, add vibrancy to our commercial districts and provide sought after outdoor dining opportunities.

The 2023 Commercial Patio Initiative is a continuation of the past pilot initiatives and the proposed modifications by staff were shared and discussed with BIA staff and other stakeholders.

During the development of the permanent Seasonal Patio Strategy, staff will engage and consult with a broad cross-section of stakeholders and public interests, including best practices reviews of patio programs in other municipalities, which will be conducted over the next six months.

(B) FINANCIAL

The 2023 patio initiative includes continued recovery measures to reduce barriers to participation as well as addressing cost recovery measures for program administration. A separate report ('Appendix J: 2023 Commercial Patio Initiative') was presented to the 2023 Budget Committee on scaled subsidy options for the 2023 patio initiative.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

Delivering the patio programs over the last nine years has taken considerable cooperation, flexibility and creativity by town staff representing various departments.

For the 2023 patio initiative, these staff provided essential feedback and will continue their involvement in program development, processing requests, overseeing logistics, and ensuring a successful season. Town staff will lead the development of a permanent Seasonal Patio Program to be launched in 2024.

(D) CORPORATE STRATEGIC GOALS

This report addresses the corporate strategic goal(s) of:

- Livability: by fostering a patio culture that provides opportunities for outdoor dining and community gathering
- Engaged Community: by collaborating with BIAs and businesses
- Accountable Government: by delivering a program and providing opportunities for local businesses and patrons
- Environment: by using existing infrastructure and by improving the local social and economic environments

(E) CLIMATE CHANGE/ACTION

The 2023 Commercial Patio Initiative does not contribute to nor will be impacted by climate change; therefore, no mitigating action is required. The installation of temporary patios provides opportunities for residents to enjoy outdoor dining and related activities during with the warmer months. The installations utilize existing hardscapes, such as municipal sidewalk, walkways, on-street parking stalls and surface parking lots.

APPENDICES:

Appendix A Chronology – Commercial Patios in Oakville

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