

Memo

To: Members of Council

From: Dorothy St. George, Director Economic Development & Corporate Strategy

CC: Jane Clohecy, CAO
Jim Barry, Acting Commissioner Community Development

Date: December 15, 2020

Subject: Winter Patios and Advocacy for Restaurants

Comments

This memo provides an update regarding issues that local restaurants are facing as a result of the COVID-19 restrictions imposed by the Province; a summary of efforts by the town to help mitigate the situation; current challenges, and a recommendation for advocacy.

Patio Program

The COVID-19 pandemic resulted in a series of provincial restrictions as well as requirements for restaurants regarding personal protective equipment (PPE) and contact tracing. In response to the restrictions, the Mayor's Economic Task Force recommended a patio program which the town introduced this past summer. It provided more flexibility for restaurants to utilize town lands, waived permit fees, and expedited approvals. Approximately 100 patio permits were issued across the town and the use of patios allowed for an increase in outdoor dining opportunities.

With the popularity of the patios and ongoing COVID restrictions, staff extended the patio season until December 31, 2020 to test the uptake of patios during the winter. A copy of the Winter Patio Guidelines is attached to this memo for reference. To prepare for colder temperatures some restaurants erected tents and introduced heaters on their patios.

A review by the Building and Fire departments of approximately one dozen patios with tents was undertaken in late November to ensure their safety. Of concern was the capacity of the tents to handle snow and wind load. The Fire department was inspecting for tent material that was fire rated and acceptable heating units that addressed the potential for carbon monoxide buildup. Only one of the tents that were inspected had acceptable heating units and four required building permits in accordance with the

Ontario Building Code. Through this work, staff learned that Regional Public Health had also been reviewing some of the tents which, as stated under the provincial orders, require that two sides of the tent be open to facilitate airflow. While they had communicated health protocols to the restaurant operators, they did not reference the need to comply with town requirements. Staff are now coordinating with Halton Public Health to ensure that businesses are provided with complete information.

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Following the site inspections, letters were issued from the Building department to advise restaurant operators of the issues found upon inspection and the changes that were necessary to bring the tents into compliance with fire regulations and the Ontario Building Code. During this timeframe, some restaurants removed their tents from their patios, a few noting that it was not economical to keep them operational and others stating that they could not afford the costs of compliance. On December 11th, four restaurants with tents (Palermo Pub, King's Arms, Symposium, and Harpers Landing) were issued an Order to Remedy an Unsafe Building including options to address the situation with the tents or remove them. The town subsequently received requests from these restaurants asking for leniency as the tents were providing a small measure of room for customers that was keeping staff employed and the business operational. There is one additional tent at Ice Sports that was relocated to comply with the 10 foot setback from other buildings. As a result, this tent would not require a building permit but falls under the Fire Code and the same issues with respect to snow and wind loads and acceptable heaters will need to be addressed.

Recognizing that the combined compliance issues and COVID restrictions were having such a negative impact on the restaurants, the Chief Building Officials from the area municipalities met with representatives from the Ministry of Municipal Affairs and Housing. The Ministry staff acknowledged that this was a difficult situation for restaurants but stated that unofficially there was no quick solution. In Oakville, having inspected the tents, the Building department had no option but to enforce the Building Code. Building staff are meeting with the restaurant representatives this week to discuss possible solutions; however, the safety of customers and staff remains paramount and it is unlikely that the use of tents will meet the snow load requirements. It does appear that the Harpers Landing tent will comply with respect to snow loads and they have acceptable heaters; staff have advised them to apply for a building permit.

Extension of the Patio Program

With respect to the Winter Patio Program, staff will be advising restaurants this week that the program will be extended to March 31st. Some restaurants have elected to keep their patios intact without a tent, planning for their use on warm sunny days throughout the winter. This option signals that the restaurant is open for business and saves the restaurant the cost of dismantling the patio and storing it over the winter. Tents may be operated if they meet the criteria set out in the Winter Patio Guidelines.

Advocacy

As the town is currently in the red zone for provincial restrictions, a maximum of 10 people are permitted in restaurants regardless of size, rendering many operations unfeasible. Patios have provided some help but with the colder weather and safety considerations, there are few businesses that can justify the related costs.

An alternative approach is to seek a change in the current provincial restrictions for indoor dining in Halton. If the limit on the number of customers is changed from a blanket maximum of 10 people to a limit based on the square footage of the restaurant, then many of the restaurants would be able to operate indoor dining. They have already invested heavily in PPE and established protocols for distancing and contact tracing to keep customers and staff safe.

On Thursday December 10th Burlington City Council passed resolution CSSRA-13-20 which included the following:

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- That the provincial government be requested to revise the physical distancing with capacity limits determined on a per square metre basis for persons admitted to all businesses, including restaurants, which are currently in Halton region under the red control level of the COVID-19 response framework subject to a hard-capped occupancy limit of 10 regardless of business size or capacity based on the current provincial re-opening framework subject to consultation on Public Health best practices.

Halton Regional Council will consider a similar motion at its meeting on December 16th to support this advocacy for the small business sector. The draft motion is attached to this memo for reference.

Recommendation

A change in the indoor capacity limits for restaurants would be a material change that could mean the difference between many local restaurants surviving the winter or closing permanently. It is recommended that Town Council join Burlington and Halton Region in this advocacy for small business.

Attachments:

- Winter Patio Guidelines
- Draft Notice of Motion Halton Region