



## Report to Council

Department: Infrastructure Services  
Division: Operations  
Date: September 3, 2024  
Prepared by: David McBeth, C.E.T., Manager, Capital Works & Asset Management & Norm Nussio C.E.T., CRS-I, Manager, Operations and Drainage  
Report Number: Operations-2024-06  
Subject: Sidewalk Patios  
Number of Pages: 5

### Recommendation(s)

**That** Operations - 2024-06 entitled, "Sidewalk Patios" prepared by David McBeth, Manager of Capital Works & Asset Management & Norm Nussio, Manager of Operations & Drainage, dated September 3, 2024, be received;

**That** Council adopt the guidelines from the Ontario Traffic Council Restaurant Patio Guidelines within the Right of Way;

**That** Council direct Administration to amend By-Law #2160, being a By-Law to permit Sidewalk Patios in the Town of Essex, to include the criteria listed within this report.

### Purpose

This report is to provide clarification on the current practice for installing a sidewalk patio in accordance with the current Sidewalk Patio By-Law #2160 and to request that Council adopt

the guidelines from the Ontario Traffic Council (OTC) for the creation of restaurant sidewalk patios.

## Background and Discussion

On June 20<sup>th</sup>, 2022, Council approved the passing of By-Law 2160 to regulate the use of sidewalk patios within the Town of Essex.

With the near completion of the Harrow and Essex Centre Streetscape projects, including the integrated flex-space in the Essex Centre, Administration has been using the current Sidewalk Patio By-Law #2160 to grant permits and patio setups.

In 2022, the Ontario Traffic Council (OTC) published Restaurant Patio Guidelines within the Right-of-Way. After reviewing the guidelines and in recognition of the guideline becoming a municipal best practice across the province, Administration is recommending that Council adopt these guidelines into the current Sidewalk Patio By-Law #2160, as it identifies province-wide best practices improve safety and limit liability for creation of sidewalk patios.

Since the previous Operations – 2024-05 Council Report presented on April 15<sup>th</sup> entitled, **“Sidewalk Patios Policy”**, the following updates have been made to the policy with consideration for the comments made by Council at this meeting.:

- The proposed sidewalk policy has been eliminated, which includes eliminating the proposal for the construction of sidewalk patio to be completed by Operations staffing.
  - This also removes the requirement for a standardized aesthetic/appearance.
- There is no new fee required for applying for a sidewalk patio permit since Operations will no longer be providing installation/teardown services.
- Requests for patio will still be made in accordance with By-Law 2160 as administered by the Legal and Legislative Services Department.

However, considering the need to adopt guidelines for the protection of the public and pedestrians in the Town of Essex, changes to By-Law #2160 are recommended to include:

- The adoption the guidelines from the Ontario Traffic Council (OTC) Restaurant Patio Guidelines within the Right of Way.
- Where required by OTC guidelines, the cost for any traffic control measures required to create a sidewalk patio are the responsibility of the applicant. In addition, that these traffic control measures are to be approved by Operations to ensure the patio is installed in accordance with OTC guidelines and best practices for pedestrian and public safety.
  - Upon approval and agreement from the applicant, the Town would purchase the required traffic control materials and an invoice for 100% of the expense would be issued to the Applicant.
  - Further, since Operations has the equipment, manpower and training required to handle traffic control devices and work within an active right-of-way, Operations will set up and take down the traffic control devices at no expense to the applicant.
- Where a pedestrian walkway (boardwalk over parking spaces) is requested by the **applicant to be constructed in the Town's Right-of-Way**, the boardwalk will be **constructed by Operations at the applicant's expense. Refer to attached figure.**
- To revise the minimum clear passage is to be 1.8m from 1.5m in accordance with OTC Guidelines.
- The authority to the Director of Infrastructure Services, or their designate to close parking spaces in the Town of Essex for the purposes of sidewalk patios.
- Revise the start date for the patio season from March 1<sup>st</sup> to be from May 1<sup>st</sup> due to winter control operations.

Important items to note from the current Sidewalk Patio By-Law #2160:

- The applicant is responsible for all costs and installation associated with the creation and/or the removal of the sidewalk patio.
- Sidewalk patios are permitted to operate until November 1<sup>st</sup>, and have 14 days (up to November 15<sup>th</sup>) **to remove the patio from the Town's right-of-way.**
- The applicant is responsible to provide insurance and indemnify the Town, Council and municipal employees from all claims of any kind.
- All patios must be enclosed by a fence that a minimum of 1.2m opening and is barrier free. Heights of the fence to vary from a minimum of 0.9m to a maximum of 1.2m. Fence is required to be 1.06m high if alcohol is being served.
- Sidewalk patios are only allowed within the business frontage.
- Not permitted to use any heating or cooling devices, unless authorized.
- Cannot be mounted or affixed to any Town owned infrastructure, which includes, but is not limited to sidewalks, planter, trees and streetlights.

The OTC guidelines are only to be used for semi-permanent and permanent sidewalk patios and are not being applied to pop-up events. Pop-ups would fall under road occupancy permit, which would be required under any of the following conditions:

- Requiring a temporary structure (ie. tent, fencing, barriers, etc.); or
- Does not maintain a 1.8m pedestrian clearway; or
- Requires use/occupancy of Town right of way overnight

Therefore, pop-up events that do not meet the criteria above may display retail goods on clothing racks and tables and would not require a permit. Pop-ups cannot contain tables and chairs for the use and consumption of food and beverages sold to the public as this would fall under the Sidewalk Patio By-Law.

The OTC guidelines will also not be used for any closed street events where the roadway would be closed to traffic by the Town.

## Financial Impact

Applicants that are required to complete traffic control measures per Ontario Traffic Council (OTC) published Restaurant Patio Guidelines within the Right-of-Way will be responsible for 100% of the expense, to be invoiced by the Town.

The installation of traffic control measures would be performed by Town of Essex Operations staff at no cost to the applicant.

If a boardwalk is requested, Operations will construct and install said boardwalk and the Applicant will be responsible for 100% of the expense, to be invoiced by the Town .

## Consultations

Kevin Girard, Director of Infrastructure Services

Kate Giurissevich, CPA, CA, Director, Corporate Services/Treasurer

Joe Malandrucolo, Director, Legal and Legislative Services/Clerk

## Link to Strategic Priorities

- Embrace asset management best practices to build, maintain, and continuously improve our municipally owned infrastructure.
- Leverage our Town's competitive advantages to promote jobs and economic investment.**
- Take care of our natural environment and strengthen the sense of belonging to everyone **who makes Essex "home"**.
- Deliver friendly customer service in an efficient, effective, and transparent manner while providing an exceptional working environment for our employees.
- Build corporate-level and community-level climate resilience through community engagement and partnership and corporate objectives.

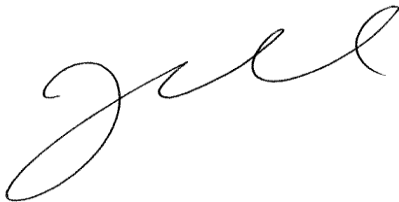
## Report Approval Details

Document Title:	Sidewalk Patios - Operations-2024-06.docx
Attachments:	- Sidewalk Patio Figure.pdf - By-Law No. 2160 - Sidewalk Patios.docx - OTC Patio Guidelines.pdf
Final Approval Date:	Aug 23, 2024

This report and all of its attachments were approved and signed as outlined below:



**Kevin Girard, Director, Infrastructure Services - Aug 23, 2024 - 9:18 AM**



**Joseph Malandrucolo, Director, Legal and Legislative Services/Clerk - Aug 23, 2024 - 9:58 AM**



**Doug Sweet, Chief Administrative Officer - Aug 23, 2024 - 10:22 AM**