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## **Council in Committee Meeting – April 13, 2021**

Subject: Patio Process and Fees 2021  
Report Number: CD 21-28  
Division: Community Development Division  
Department: Economic Development Department  
Purpose: For Decision

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### **Executive Summary:**

This report seeks to extend and expand on exemptions and various supportive measures that aim to enable establishment of patios during the ongoing COVID-19 pandemic.

### **Discussion:**

#### **Enabling Business – Patio's During COVID-19**

In 2020 Norfolk County Council was quick to respond to calls from businesses to support patios. The Health-Unit, Public Works, By-Law, Fire, Planning, Building and Clerks all worked together to review and issue encroachments agreements with the majority being completed within two weeks of application. It is important to note that of the twenty-one patios reviewed and approved in 2020, the majority did not require encroachments but still required review and approval from the County for AGCO licensing.

Prior to the COVID-19 related exemptions, new patio application were required to either be submitted with a letter of support from the local BIA, or where a local BIA is not established, a Public Notice of the application for a patio would need to be posted for a thirty day period at any business seeking a patio. One significant advantage of the 2020 process is that Council had the foresight to approve an exemption to Policy PD 21, which suspended the requirement for a public process and approved those patios for a two year period. As a result, encroaching patios approved in 2020 are only required to submit new insurance and the established fee in 2021. Notwithstanding, inspections may be required prior to patios opening in 2021.

Additionally, for any new patios requiring encroachment in 2021, staff are establishing a lean process for submission, review and tracking.

### Extension of Patio Program Exemptions

With businesses continuing to be adversely affected by the ongoing global pandemic, including uncertainties ranging from possible additional provincial lockdowns to limits being placed on the number of persons allowed to dine indoors, patios provide a way for establishments to allow for social distancing in the outdoors resulting in increased patronage. Given the importance of patios during the ongoing pandemic, staff are proposing that Council considers extending the existing patio exemptions that were approved in Council Report CAO 20-06, which include the following:

- (a) That the requirement in policy PD-21 respecting public notice be suspended for 2021 due to the COVID-19 Emergency, and
- (b) That approvals granted in 2021 to patios that would have otherwise required public notice be limited to two-years in duration.

The extension of these exemptions will allow for faster processing turnaround time of patio applications, and will reduce the paperwork required to include a renewal application with an updated insurance certificate, relevant health and safety assessment, and health requirements.

### Adjustment of Patio Fees

Patio fees approved by Council in June of 2020 are shown in the table below. While the one time application fee was left at \$214, the rental “price per square metre per day” (based on the amount of public land being “leased” and utilized by the patio) was reduced from \$0.30 for seasonal patios (\$0.18 for year round patios) to \$0.06. This reduced amount was established by Council in recognition of the fact that patios would not be able to operate at full capacity due to public health requirements.

Given the ongoing uncertainties related to the pandemic, and the possibility that additional public health measures may be required during the patio season that would further reduce (or even close) some of the patios, staff are recommending that these fees remain unchanged for 2021, and that the possibility of returning to a full “price per square meter per day” cost be re-evaluated prior to the 2022 patio season.

Table 1: Patio Fees

	One time application fee	Price per square metre per day
2020	\$214	\$0.06
2021	\$214 (proposed)	\$0.06 (proposed)

### Economic Recovery Offset

Since the sit-down food & beverage retail industry was, and continues to be, amongst the most significantly impacted by the COVID-19 pandemic, staff propose to utilize a portion of the funding allocated to the Economic Recovery Plan to offset both the one-time patio application fees for 2021, as well as the “price per square metre per day”

rental fee for the land. Funds would not be paid directly to establishments, but rather all costs would still be paid through an internal recovery from the Economic Recovery Plan budget.

Estimated costs for this offset, based on 15 net new patio applications in 2021 (new net applications are those that had not already paid the one-time application fee last year, as part of a multiyear approval), as well as 35 total active patios in 2021 that would utilize and average of 1 parking spot for 6 months, would result in an approximate offset of between \$8800 to \$10,000 for the year. Should this effort result in a larger number of patios being established, the offset total amount would be higher. However, staff view a larger number of patios as a positive outcome for food and beverage establishments in Norfolk County.

### Business Feedback

The Simcoe BIA conducted an informal survey of local restaurants to gather feedback about their experience with participating in the patio program. Of the 11 restaurants that responded, 7 were definitely interested in continuing with, or signing up for, the patio program while 4 respondents could not commit for the following reasons:

- Limited space (not willing to give up parking spots)
- Traffic line of sight issue (health and safety),
- Prohibitive cost (affordability)
- Loitering on the patio (suitability to business).

Staff spoke to 2 businesses that set-up a patio for the first time in 2020 due to pandemic-related challenges. Both businesses indicated significant benefits from the use of the patio and reported that without the patio their sales would have been severely affected. Both are once again interested in utilizing the patio program for 2021. The patios allow for outdoor dining and social distancing when there are limitations on the number of patrons that are permitted to dine indoors.

### **Financial Services Comments:**

#### Budget Implications:

The Approved 2021 Levy Supported Operating Budget does not contain a budgeted amount for the use of County lands for the purpose of patio encroachments. Budgets for specific patio encroachment fees were removed following the expiration of a pilot project prior to 2020. Due to uncertain circumstances related to COVID-19 guidelines in 2020 and the timing of the proposed policy and fee changes, minimal revenue was collected during 2020. As prior activity was minimal and conditions related to COVID-19 were expected to persist, staff did not budget for any revenue related to these fees within the 2021 Levy Budget to be conservative.

If the recommendations within this report are approved, and these fees are covered through the Economic Recovery Plan, total revenue generated is anticipated to be between \$8,800 and \$10,000, which would result in a positive variance in 2021.

**Economic Recovery Plan:**

Per staff report PD 20-73 (December 8, 2020 CIC meeting – resolution #9), Council approved an allocation of \$250,000 from the Council Initiative Reserve to fund the implementation of portions of the proposed Economic Recovery plan. Finance staff will work with the Economic Recovery Taskforce to update Council in the coming months on the use and commitment of funds to date, which would include the \$10,000 outlined in this report should Council approve staff's recommendation to subsidize these patio encroachment fees in support of local businesses during the pandemic.

**User Fee Implications:**

The 2021 user fee by-law included the full-rate seasonal (\$0.31 per sq. metre per day) and full-year (\$0.18 per sq. metre per day) space rental fees as well as the application fee of \$218 all adjusted for inflationary increases. Based on the recommendations within this report, the user fee by-law will be required to be amended if approved by Council. The proposed rates are outlined in Table 1 of the body of the report.

Finance staff previously committed to a full review of patio encroachment user fees, which is expected to occur post pandemic when resources allow and conditions return to normal.

**Interdepartmental Implications:**

Approval of patio encroachments requires a coordinated multi-departmental response.

**Consultation(s):****Strategic Plan Linkage:**

This report aligns with the 2019-2022 Council Strategic Priority "Create an Optimal Place for Business".

**Explanation:**

This report builds upon Council's 2020 efforts to support local business.

**Conclusion:**

With the continuing uncertainties surrounding the ongoing pandemic and concern regarding the possibility of another wave due to virulent strains of COVID-19, and the fact that patios have proven to be a significant benefit to restaurants and an added factor in affording businesses the ability to implement social distancing, staff are recommending that Council approve extending the public notice and 2 year approval exemptions to Policy PD-21 that were implemented in June 2020, continuing the reduced "Price per square metre per day" cost for patios that encroach on municipal land, and offsetting patio fees and "Price per square metre per day" costs through funding available via the Economic Recovery Plan, for patios in the 2021 season.

**Recommendation(s):**

THAT Staff report CD 21-28 respecting Patio Process and Fees for 2021, be received as information;

AND THAT Council exempt patios from the public notification requirements outlined in policy PD-21 for 2021;

AND THAT Council permit new patios approved in 2021, which would have otherwise required public notice, to operate in 2022 given that fees are paid in full and insurance is in place;

AND THAT due to the ongoing pandemic and uncertainties, Council permit the price per square metre per day rental rate for 2021 to remain at \$0.06 per square meter, and the one-time application fee to remain at \$214;

AND THAT in support of economic recovery within the sit-down food & beverage retail industry, that the patio price per square metre per day rental rate and the one-time application fee be offset in 2021 through funding available via the Economic Recovery Plan;

**Attachment(s):**

Appendix A - Patio Encroachment Application form and Policy PD-21

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