

**Municipality Of Chatham-Kent**  
**Community Development**  
**Planning Services**

**To:** Mayor and Members of Council

**From:** Ryan Jacques, MCIP, RPP  
Director, Planning Services

**Date:** December 21, 2020

**Subject:** Zoning By-Law Amendment – Permanent Outdoor Patios  
PL202000216

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**Recommendation**

It is recommended that:

1. Zoning by-law amendment File D-14 C/52/20/C pertaining to permanent Outdoor Patios, be approved, and the implementing by-law be adopted.

**Background**

On December 14, 2020, Council directed administration to proceed with a formal public notice in accordance with the *Planning Act* for amendments to the Zoning By-law pertaining to permanent Outdoor Patios, with consideration of adoption at a subsequent Planning Meeting of Council.

**Comments**

Through the second half of 2020, administration worked with many local restaurant and bar owners to establish temporary outdoor patios on private property and on the municipal right-of-way in order to maintain appropriate social distancing, in accordance with public health measures.

Some business owners have noted that they may like to invest in constructing a permanent patio in future on their own property, but they are constrained in doing so because of current regulations in the Zoning By-law. Specifically, in several cases the only option to construct a permanent patio would be to use some existing parking spaces. Therefore, in order to provide some flexibility, it is recommended that the Zoning By-law be amended so that up to 15% of the required and/or existing parking spaces for the main use may be used to construct an outdoor patio. The required number of accessible off-street parking spaces must still be provided.

## Official Plan

Restaurant and bars are important businesses in Chatham-Kent. They play a role in job creation through small business start-ups, attraction of new entrepreneurs and expansion of existing businesses. The hospitality sector at-large is negatively affected by continued COVID-19 related public health measures. To support the efforts of these businesses through the pandemic and beyond, the Municipality can use land-use planning tools such as zoning by-law amendments to support and revitalize these important businesses throughout Chatham-Kent.

## Zoning By-law

It is recommended that the general provisions of the Zoning By-law of Section 4.32, Outdoor Patio be deleted and replaced with provisions that are more permissive.

Existing general provisions to be deleted and replaced are:

### *4.32 Outdoor Patio*

*An outdoor patio shall only be permitted as an accessory use to an "Eating Establishment" only in accordance with the following provisions:*

- a) the outdoor patio shall not exceed 50% of the gross floor area devoted to patron use of the eating establishment in conjunction with which the outdoor patio use is permitted;*
- b) the parking required for the outdoor patio shall be equal to that required for the main eating establishment use;*
- c) an outdoor patio shall not be permitted in any yard located between the building containing the main eating establishment and any Residential Zone;*
- d) any lighting facilities illuminating an outdoor patio shall be arranged so as to deflect light away from adjoining properties and streets;*
- e) the use of musical instruments, or other mechanical or electrical music equipment, and dancing, theatrical performances or audiovisual presentations, music concerts and shows, shall not be permitted in areas designated for outdoor patio use;*
- f) the ground surface of an outdoor patio shall be of concrete or other hard surface; and,*
- g) the outdoor patio shall be completely enclosed by a physical barrier.*

New proposed general provisions are:

*4.32 Outdoor Patio*

*An outdoor patio shall only be permitted as an accessory use to an “Eating Establishment” or “Tavern” in accordance with the following provisions:*

- a) the outdoor patio shall not exceed 50% of the gross floor area devoted to patron use of the main use;*
- b) that up to 15% of the required and/or existing parking spaces for the main use may be used to construct an outdoor patio. The required number of accessible off-street parking spaces must still be provided;*
- c) an outdoor patio shall not be permitted in any yard located between the building containing the main use and any Residential Zone;*
- d) any lighting facilities illuminating an outdoor patio shall be arranged so as to deflect light away from adjoining properties and streets;*
- e) the use of musical instruments, or other mechanical or electrical music equipment is permitted in accordance with the Municipality’s Noise By-law.*
- f) dancing, theatrical performances or audiovisual presentations, music concerts and shows, shall not be permitted;*
- g) the ground surface of an outdoor patio shall be of concrete or other hard surface; and,*
- h) the outdoor patio shall be completely enclosed by a physical barrier.*

The proposed amendments will be finally approved following adoption of the by-law and the conclusion on the 20-day appeal period, provided there are no appeals. This will be February 8, 2021.

**Areas of Strategic Focus and Critical Success Factors**

The recommendation in this report supports the following areas of strategic focus:

Economic Prosperity:

Chatham-Kent is an innovative and thriving community with a diversified economy

A Healthy and Safe Community:

Chatham-Kent is a healthy and safe community with sustainable population growth

People and Culture:

Chatham-Kent is recognized as a culturally vibrant, dynamic, and creative community

Environmental Sustainability:

Chatham-Kent is a community that is environmentally sustainable and promotes stewardship of our natural resources

The recommendation in this report supports the following critical success factors:

Financial Sustainability:

The Corporation of the Municipality of Chatham-Kent is financially sustainable

Open, Transparent and Effective Governance:

The Corporation of the Municipality of Chatham-Kent is open, transparent and effectively governed with efficient and bold, visionary leadership

Has the potential to support all areas of strategic focus & critical success factors

Neutral issues (does not support negatively or positively)

### **Consultation**

Community Development, Legal Services and Public Works staff involved in the implementation of the patio program have provided input to the recommendation.

### **Financial Implications**

There are no financial implications resulting from the recommendation.

Prepared by:

  
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Ryan Jacques, MCIP, RPP  
Director, Planning Services

Reviewed by:

  
\_\_\_\_\_  
Bruce McAllister, MCIP, RPP  
General Manager,  
Community Development

Attachment: By-law to Amend Zoning By-law 219-2009P:\RTC\Community Development\2021\Planning Services\Jan 18-21 Outdoor Patio Report.docx

CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT

BY-LAW NO. \_\_\_\_-2021

A BY-LAW TO AMEND ZONING BY-LAW 216-2009

OF THE MUNICIPALITY OF CHATHAM-KENT

(Outdoor Patios)

WHEREAS the Council of the Municipality of Chatham-Kent enacted By-law 216-2009 to regulate the use of land and the character, location and use of buildings and structures in the Municipality of Chatham-Kent on December 14, 2009 (Zoning By-law);

AND WHEREAS Council has determined that certain amendments be made to By-law 216-2009 pursuant to Section 34 of the Planning Act, R.S.O. 1990 Chapter P. 13, as amended, to amend certain regulations related to Outdoor Patios;

AND WHEREAS the proposed amendments and updates to Zoning By-law 216-2009 conform with the general intent and purpose of the Municipality of Chatham-Kent Official Plan;

AND WHEREAS Council has the authority pursuant to Section 34 of the Planning Act R.S.O. 1990 Chapter P. 13, as amended, to pass amendments to the Zoning By-law;

NOW THEREFORE BE IT AND IT IS HEREBY ENACTED AS By-law No. \_\_\_\_-2021 of the Corporation of the Municipality of Chatham-Kent:

1. That By-law 216-2009, as amended, of the Municipality of Chatham-Kent, be amended by deleting Section 4.32 – Outdoor Patio and replacing it with the following:

“4.32 Outdoor Patio

An outdoor patio shall only be permitted as an accessory use to an “Eating Establishment” or “Tavern” in accordance with the following provisions:

- a) the outdoor patio shall not exceed 50% of the gross floor area devoted to patron use of the main use;
- b) that up to 15% of the required and/or existing parking spaces for the main use may be used to construct an outdoor patio. The required number of accessible off-street parking spaces must still be provided;
- c) an outdoor patio shall not be permitted in any yard located between the building containing the main use and any Residential Zone;
- d) any lighting facilities illuminating an outdoor patio shall be arranged so as

to deflect light away from adjoining properties and streets;

- e) the use of musical instruments, or other mechanical or electrical music equipment is permitted in accordance with the Municipality's Noise By-law.
- f) dancing, theatrical performances or audiovisual presentations, music concerts and shows, shall not be permitted;
- g) the ground surface of an outdoor patio shall be of concrete or other hard surface; and,
- h) the outdoor patio shall be completely enclosed by a physical barrier".

THIS By-law shall come into force and effect upon the final passing thereof, subject to the provisions of the Planning Act, R.S.O. 1990 Chapter P. 13, as amended.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED this 18th day of January, 2021.

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MAYOR – Darrin Canniff

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CLERK – Judy Smith