



Report to: Development Services Committee

Report Date: March 18, 2014

SUBJECT: RECOMMENDATION REPORT
City Initiated Regulations to Permit Outdoor Patios on the Public Right of Way

PREPARED BY: Sally Campbell, Senior Planner – Urban Design, ext. 2645
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REVIEWED BY: Rino Mostacci, Director of Planning & Urban Design, ext. 4713

RECOMMENDATION:

- 1) That the report dated March 18, 2014, entitled “RECOMMENDATION REPORT City Initiated Regulations to Permit Outdoor Patios on the Public Right of Way”, be received;
- 2) That an amendment to Section 6.1 of the Road Occupancy By-law 2013-136, included as Appendix ‘A’, be enacted to regulate outdoor patios in the public right of way;
- 3) That the Director of Operations be authorized to finalize Corporate Policy 2013-136-03, included in draft as Appendix ‘B’, which sets out details of the permitting system that will be subordinate to the Road Occupancy by-law;
- 4) That the Director of Planning & Urban Design be authorized to finalize the Outdoor Patio Design Guidelines, included in draft as Appendix ‘C’, which will be appended to the Corporate Policy;
- 5) And that Staff be authorized and directed to do all things necessary to give effect to this resolution.

PURPOSE:

Committees of Council have previously received several reports that consider the regulation of private outdoor patios within the public right of way. The purpose of this report is to:

- Seek Council approval of the amendment to the Road Occupancy By-law 2013-136 Section 6.1; and
- Request Council delegation of authority to the Director of Operations and the Director of Planning & Urban Design respectively to finalize and implement the operational policy and design guidelines that will be administered by staff to permit private businesses to operate an outdoor patio in the public right of way.

BACKGROUND:

Popularity of Outdoor Patios

The culture of dining and drinking on patios in the open air during fair weather has become increasingly popular with businesses and customers. Well designed patios located in front of a

business can contribute to the animation and life of a street, allowing people to engage in street activities, providing a vibrant and attractive pedestrian environment, as well as contributing to the economic success of commercial areas and supporting the City's goals of delivering an exemplary public realm.

Requests for Patios on Public Lands

In Markham there are several successful outdoor patios operating within the private front yards of businesses particularly along the main streets of Unionville and Markham Village. Several businesses have also placed tables and chairs across their frontages that partly encroach onto the municipal right of way and while not legally permitted or authorized by the municipality, these casual arrangements have been tolerated. However, this type of patio has resulted in concerns relating to public safety due to conflicts between pedestrians, patio users and parked or moving vehicles and those accessing parking lots at the rear of stores. Furthermore, during stakeholder consultation for the Main Street Markham Reconstruction Project, there were requests from several businesses interested in having patio space that encroaches into the public right of way.

Previous Reports and Consultation on Outdoor Patios

Staff have responded to the growing popularity of outdoor patios coupled with the need to ensure that patios are safe for customers and maintain a comfortable, safe and accessible path of travel for all users, including people with disabilities by bringing forward a series of reports to Committee seeking direction to allow patios on public lands to be regulated. The following chronology summarizes past reporting and consultation.

- January 2012 - Main Street Markham Reconstruction Project Liaison Committee (PLC) established. At the April 2012, meeting the matter of accommodating restaurant patios along Main Street was initially raised.
- June 6, 2012 - Urban Design staff hosted a workshop with stakeholders representing both Main Street Markham and Unionville to review how other municipalities deal with the matter of permitting businesses to locate patios within the public right of way and what form the patios take.
- June 15 2012 - Manager of By-law Enforcement & Licencing and the Director of Operations. Memo to General Committee to provide an interim solution for the 2012 patio season. The Council resolution at that time also included direction to staff to prepare Markham-wide Urban Design Guidelines and By-laws to permit boulevard patios and that those documents have regard to the Main Street Markham Reconstruction Project.
- May 21, 2013 – Senior Planner, Urban Design. Preliminary Report to apprise Council of how other municipalities regulate patios, the types of patio layouts proposed for Markham, potential regulations and design guidelines and specific requests from Main Street Markham businesses.
- May 29, 2013 – Markham Sub-Committee met to review the patio requests from Main Street Markham businesses.

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- June 24, 2013 - Manager of By-law Enforcement & Licencing and the Director of Operations. Road Occupancy By-law 2013-136 enacted. Section 6.1 reserved for Boulevard Patios.

DISCUSSION:**Proposed Amendment to Road Occupancy By-law Section 6.1**

In June of 2013 Council enacted a new Road Occupancy By-law. The by-law consolidated all of the City's previous by-laws regulating the use of "Highways" and controls activities falling within the public right of way, such as construction activities, publication dispensing devices, boulevard trees and highway obstructions. Section 6.1 of the By-law was reserved and subject to future amendment to implement details pertaining to boulevard patios. The By-law amendment, which is attached as Appendix 'A' to the report, provides regulations for the establishment and operation of a boulevard patio; creates enforcement authorities; and, establishes fees for patios. The By-law will ensure policy compliance and enable prosecution in the event of non compliance of parties involved in operating outdoor patios within the municipal right of way.

Operation Department's New Public Road Allowance Policy for Patios

The Operations Department has developed new Public Road Allowance Policies, which set out details of the permitting systems that will be subordinate to the Road Occupancy By-law. To date there are separate policies and permitting systems in place for construction activities in the public right of way and publication dispensing devices. The third policy relates to outdoor patios.

The Outdoor Patio Policy specifically sets out the permitting system to regulate the location, installation and maintenance of private outdoor patios on municipal boulevards within the boundaries of the City of Markham. Regulation of this type of installation through a policy and permitting process is intended to enhance the safe and efficient use of City road allowances while improving the public realm and supporting economic success of local business.

Applicants wishing to place an outdoor patio that is associated with an abutting business property on any road allowance within the boundaries of the City of Markham shall be required to obtain a Road Occupancy Permit, issued by the Director of Operations under the authority of Road Occupancy By-law 2013-136, as amended. This policy is intended to set out the requirements established by the Director of Operations for the issuance of the permit and an applicant's obligations during the term of the permit. Failure by the applicant to meet and maintain all permit requirements will result in appropriate enforcement action under the by-law.

The draft policy is attached as Appendix B to the report for information. Subject to recommendation 3) of the report, The Director of Operations will finalize the policy document and implement the permit process. Some important provisions to highlight within the policy relate to the ability of the City to enter a patio on the public right of way to undertake repairs to public infrastructure as required. In undertaking such repairs as required the City shall not be liable for any damage to the patio. Furthermore, damage to public infrastructure as a result of the installation of a patio on the public right of way shall be repaired at the cost of the applicant or the property Owner. The property Owner will be required to be a signatory to the patio permit.

Supporting Design Guidelines

Successful commercial patios can greatly contribute to the character of a street. Care should be taken, however, in their design to ensure that they complement and do not detract from the street in terms of visual appearance and interaction with the surrounding environment and do not conflict with public safety. This is especially important in the City's Heritage Conservation Districts. One of the main features of an outdoor patio is the boundary fence and the way in which its design and appearance integrates with the street. Similarly, furniture and landscape treatments should all be compatible with the character of the street.

Staff are in the process of finalizing design guidelines that will outline some of the basic principles for the planning and design of outdoor patios. The guidelines are intended to be used in concert with the Outdoor Patio Policy requirements and By-law regulations to ensure that each outdoor patio is aesthetically attractive and appropriately designed for the site-specific setting.

Previous Adopted Patio Types

At its meeting on May 21, 2013 Development Services Committee adopted three patio types that are considered appropriate to be located on the public right of way subject to site-specific constraints. The three patio types are:

- Type A – Boulevard Patio, located between the curb and the sidewalk.
- Type B – Sidewalk patio, which extends from the building face or property line across the sidewalk (only where an alternative pedestrian route is available).
- Type C – Single Row, tables and chairs up against the building face.

Highlights of the proposed Design Guidelines are attached as Appendix "C". In the preparation of the final design guidelines staff are compiling suitable illustrations, sketches and graphics to illustrate the intent of the guidelines in a clear and concise format. The final guidelines will be prepared and implemented to the satisfaction of the Director of Planning and Urban Design.

FINANCIAL CONSIDERATIONS AND TEMPLATE:

A municipal service fee for a Road Occupancy Permit for the purpose of locating an outdoor patio will be charged, as identified in Schedule A of the By-law Amendment. The purpose of the fee is to recover the City's cost of processing and administering the permits and for site inspections. The costs associated with restoring damaged public infrastructure resulting from a patio installation will be the responsibility of the applicant or property owner. Staff have conducted a benchmark review for the recommended permit fees and they are comparable to other municipalities, as well as being consistent with other fees recently approved under By-law 2013-226 (fees for processing of planning applications).

HUMAN RESOURCES CONSIDERATIONS

No applicable

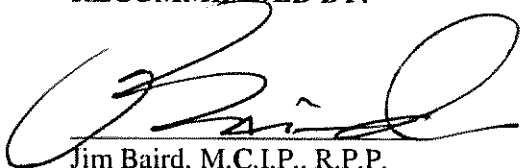
ALIGNMENT WITH STRATEGIC PRIORITIES:

This work aligns with the following areas of strategic focus; growth management, infrastructure management, environmental responsibility, municipal services and operations. The work also supports the goals of Markham's Public Realm program, which is a new cross commission initiative delivered as part of the Leisure Masterplan.

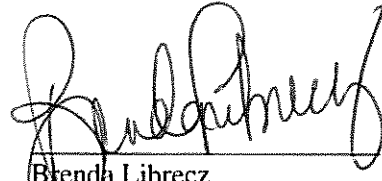
BUSINESS UNITS CONSULTED AND AFFECTED:

This is a cross-corporation initiative involving By-law Enforcement & Licencing, Operations, Planning and Urban Design, Financial Services and Fire Services.

RECOMMENDED BY:



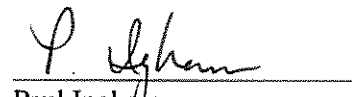
Jim Baird, M.C.I.P., R.P.P.
Commissioner, Development Services



Brenda Librecz
Commissioner, Community & Fire Services



Rino Mostacci, M.C.I.P., R.P.P.
Director of Planning & Urban Design



Paul Ingham
Director of Operations

ATTACHMENTS:

- Appendix A – Road Occupancy By-law Section 6.1 amendment
- Appendix B – Draft Outdoor Patio Policy
- Appendix C – Draft Design Guideline Highlights



BY-LAW 2014-XX

A By-law to amend Road Occupancy By-law 2013-136
(Boulevard Patios)

THE COUNCIL OF THE CORPORATION OF THE CITY OF MARKHAM HEREBY
ENACTS AS FOLLOWS:

1. That Section 1 of Road Occupancy By-law 2013-136 be amended by adding the following definitions:

“Boulevard Patio” means a designated area within a boulevard associated with an abutting eating establishment where food and drink are offered for sale and/ or consumed, no wider than the width of the eating establishment’s storefront.

2. That Section 6.1 of Road Occupancy By-law 2013-136 be amended by deleting the existing Section 6.1 “Reserved” and inserting the following provisions:

6.1 No person shall in relation to *Boulevard Patio*:

- 6.1.1 place, install, operate or maintain on a *Boulevard Patio* on a *highway* without having obtained a *Road Occupancy Permit* pursuant to this by-law;
- 6.1.2 place, install, operate or maintain on a highway within the *City* a *Boulevard Patio* at a location that is not approved or prohibited by the *Director* or installed in a manner that is not approved or prohibited by the *Director*;
- 6.1.3 place, install, operate or maintain on a *highway* within the *City* a *Boulevard Patio* that is not in conformity with the size, dimension and other technical or physical requirements established by the *Director*;
- 6.1.4 place, install, operate or maintain on a highway within the *City* a *Boulevard Patio* that is not maintained in accordance with the maintenance requirements established by the *Director*;

- 6.1.5 place, install, operate on a highway within the City a Boulevard Patio in contravention of the terms and conditions of the Road Occupation Permit and requirements established by the Director;
- 6.1.6 place, install, operate or maintain on a *highway* within the *City* a *Boulevard Patio* prior to April 1st each year and use or maintain a *Boulevard Patio* past October 31st each year;
- 6.1.7 allow the encroachment of any furniture, umbrella, post or any other equipment within a *Boulevard Patio* past the approved barriers or the area of encroachment as established by the *Director*;
- 6.1.8 a *Boulevard Patio* may be removed from a *highway* by the *City* in accordance with by-law provisions where:
 - 6.1.8.1 the placement, installation and maintenance of *Boulevard Patio* does not comply with all requirements, terms and conditions contained in a *Road Occupancy Permit*, this by-law or any policy established by the *Director* regulating *Boulevard Patios* and a *Road Occupancy Permit* and the non compliance is not cured by the permit holder within forty-eight (48) hours of the *City* advising the permit holder of such non-compliance;
- 6.1.9 The *Director* may, at the sole expense of the applicant, and in accordance with a policy established by the *Director* regulating *Boulevard Patios*, require the temporary relocation of a *Boulevard Patio*, or suspension or revocation of a permit if such temporary relocation of a *Boulevard Permit* or suspension or revocation of a *Road Occupation Permit* is necessary for:
 - 6.1.9.1 the interests of pedestrian, vehicular or public safety;
 - 6.1.9.2 to accommodate a special event; or
 - 6.1.9.3 to accommodate the construction, maintenance or repair of a *highway*, transit facilities or a public utility or service.


3. That Schedule 'A' to Road Occupancy By-law 2013-136 be amended by adding the following new fees:

28	Boulevard Patio- Permit Fee for a new application	\$375	Fee for initial review of application or in subsequent years when changes to a patio configuration are requested
29	Boulevard Patio- Renewal of Permit Fee	\$250	Annual fee to renew a permit that was active in the prior year when no changes to configuration are requested
30	Boulevard Patio- Encroachment Fee	\$35/m ²	Annual fee in addition to permit fee for each 2 m ² of public land occupied by the Patio

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS
OF, 2014.

K. KITTINGHAM, CITY CLERK

FRANK SCARPITTI, MAYOR

		Outdoor Patio Policy	
		Policy Category:	
Policy No.: 2013-136-03		Implementing Procedure No.:	
Approving Authority: <i>Executive Leadership Team</i>		Effective Date: <i>April 1, 2014</i>	
Approved or Last Reviewed Date: <i>N/A</i>		Next Review Year: <i>2016</i>	
Area(s) this policy applies to: <i>Operations Department, By-Law Enforcement, Planning & Urban Design</i>		Owner Department: <i>Operations Department</i>	
Related policy: <ul style="list-style-type: none"> <i>Road Occupancy By-law 2013-136, as amended</i> 			

Note: Questions about this policy should be directed to the Owner Department.

1. Purpose Statement

This policy sets out a permitting system to regulate the location, installation and maintenance of private outdoor patios on municipal boulevards within the boundaries of the City of Markham. The regulation of the location, installation and maintenance of private outdoor patios is intended to enhance the safe and efficient use of City road allowances while improving the public realm and supporting economic success of local business.

The permitting system is subsidiary to the Road Occupancy By-law 2013-136, as amended. The By-law will ensure compliance and enable prosecution in the event of non compliance of parties involved in operating outdoor patios within the municipal right-of-way.

2. Applicability and Scope Statement

Applicants wishing to place an outdoor patio that is associated with an abutting business property on any road allowance within the boundaries of the City of Markham shall be required to obtain a Road Occupancy Permit, issued by the Director of Operations under the authority of Road Occupancy By-law 2013-136, as amended. This policy is intended to set out the requirements established by the Director of Operations for the issuance of the permit and an applicant's obligations during the term of the permit. Failure by the applicant to meet and maintain all permit requirements will result in notice to immediately remedy the non-compliance or remove the outdoor patio and all associated fencing and furniture.

3. Background

In the past, businesses serving food or beverages have placed tables and chairs across their frontages that partly encroach onto the municipal right of way resulting in concerns relating to public safety due to conflicts between pedestrians, patio users and parked or moving vehicles and those accessing parking lots at the rear of stores. Maintenance of the City's infrastructure and ensuring unobstructed emergency access are other considerations.

A comprehensive policy is required to respond to the growing popularity of outdoor patios coupled with the need to ensure that patios are safe for customers and maintain a comfortable, safe and accessible path of travel for all users, including people with disabilities.



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4. Definitions

Refer to Road Occupancy by-law 2013-136, as amended for additional definitions pertaining to this policy.

The terms defined herein shall have, for all purposes of this policy, the following meanings:

BOULEVARD – means the portion of the highway between a street line and the edge of the curb, or where there is no curb, that portion of the highway which is travelled or designed to be travelled by vehicles.

BY-LAW - Road Occupancy By-law 2013-136, as amended.

DIRECTOR OF OPERATIONS – The Director of Operations or their designate.

HIGHWAY - includes a common and public highway, highway, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, including the area between the lateral property lines thereof and includes unopened and unassumed road allowances.

SIDEWALK – That part of a highway located within the boulevard that is improved for the exclusive use of pedestrians.

APPLICANT – A person applying for a permit under the By-law for the placement of an installation on a highway or a person holding such permit.

OUTDOOR PATIO – means an outdoor area used only on a seasonal basis in conjunction with an adjacent restaurant use permitted under by-law where seating accommodation is provided for customers and which is located on the public right of way, including the boulevard or the sidewalk.

PERMIT – A Road Occupancy Permit issued under the By-Law.

POLICY – Means this Outdoor Patio Policy.

PUBLIC RIGHT OF WAY – Means a common and public highway, highway, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, including the area between the lateral property lines thereof and includes unopened and unassumed road allowances.

5. Policy

A. Application for a Permit

1. Any owner of a property or authorized business operator can install and operate an outdoor patio along or in a highway subject to an application and approval of a permit to the Director of Operations being submitted on the prescribed form at least eight (8) weeks prior to the proposed date for the placement of the outdoor patio, including the following:
 - a) name, address and telephone number of the applicant (who shall be the business operator)
 - b) name, address, telephone number and signed authorization of the property owner (if not the applicant)



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- c) proposed location where the outdoor patio is to be placed, which shall be in compliance with the requirements set out in subsection **Error! Reference source not found.**;
- d) four (4) site plan drawings (size 11" x 17") of the proposed outdoor patio clearly showing:
 - Key map;
 - Property lines including all dimensions;
 - Dimensions of all existing buildings and patio areas and the proposed outdoor patio;
 - Site context to show adjacent property building setbacks and uses ;
 - Site context to show all adjacent trees within 6.0 metres of the existing building and proposed outdoor patio;
 - Label adjacent public open space lands
 - Location and dimension of all utilities within 6.0 metres of the existing building and proposed outdoor patio, including fire hydrants, Bell/Rogers/Other cabinets, light poles, hydro transformers
 - curbs, sidewalks and trees in ROW (if any);

2. The application and the permit shall require the applicant to indemnify and save the City, its elected officials, officers, employees and agents, harmless with respect to any actions, third party claims, costs, losses, injuries or damages (including legal costs) whatsoever arising directly or indirectly from the applicant's (or the applicant's employees, contractors, subcontractors, agents, directors or officers) placement of an outdoor patio on or within a highway within the City of Markham or breach by the applicant of this policy, the By-law or the permit.
3. The applicant covenant and agree to further hold the Town and any other agencies, having utilities or services on or in the boulevard, harmless from any claims, suits, actions or demands whatsoever which may in any manner be affected in any work of constructing, altering, relocating or repairing any public service or utility rendered necessary or desirable by or on account of any maintenance work required to be carried out with respect to the outdoor patio, including, but not limited to, the temporary fencing, landscaping, furniture, and other patio amenities.
4. Every applicant shall provide and maintain Commercial General Liability and Automotive Insurance equivalent to or in excess of the minimum insurance requirements as outlined in the City's "General Terms and Conditions", as approved by the City's Purchasing department, naming the City as additional insured.
5. Any application which does not include all of the information, insurance and the applicable fees as required under this policy at the time that the application is made shall be deemed to be incomplete and shall not be processed until such time as all required information is provided and the fees are paid.
6. Any information submitted as part of an application for a permit which the applicant identifies as proprietary and confidential, shall be treated as confidential and, except where required by law, shall not be revealed to any third party without the consent in writing of the applicant, until such time that a permit is issued pursuant to subsection B.

B. Issuance of Permit

1. Where an application meets the requirements of the By-law, this policy, the applicable technical specifications, design guidelines, heritage area guidelines and all applicable fees set out in the By-law have been paid, the Director of Operations shall issue the required permit.



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2. Where a property is designated pursuant to the Ontario heritage Act, either individually or within a Heritage Conservation District, the permit shall be deemed to be a consent of permit issued under the Ontario Heritage Act.
3. Subject to Subsections C and D, a permit issued under the By-law shall be for a period of seven (7) months and shall be subject to annual renewal by the applicant provided that the applicant submits a renewal application and pays the renewal fees as required under this policy and is not in violation of the terms and conditions in the permit and this policy.
4. A permit issued for an outdoor patio shall not be transferred or assigned by the applicant in any manner whatsoever without the consent of the Director of Operations, which consent may be withheld at the sole discretion of the Director of Operations.

C. Regulations

The following regulations must be achieved in order for a permit to be issued for an outdoor patio under this Policy. These standards shall also be maintained by the applicant for the period of the permit to the satisfaction of Director of Operations.

An outdoor patio on the municipal boulevard shall be:

- a. permitted for seven (7) months commencing April 1st, ending October 31st ;
- b. restricted to operational hours between 7am to 11pm, subject to other applicable law;
- a. setback a minimum of 1.2m from a fire hydrant;
- c. setback a minimum of 0.9m from the face of the nearest highway curb;
- d. no wider than the frontage (width) of business to which it is related;
- e. located outside the daylight triangle where adjacent to an intersection;
- f. setback a minimum of 0.3m from the sidewalk. Where the patio is permitted to encroach across the main sidewalk it shall be setback a minimum of 0.3m from the alternative sidewalk route;
- g. enclosed by a fence, which shall have a minimum height of 0.9m and maximum height of 1.2m high above grade;
- h. enclosed by a fence that shall be secure, but may not be fixed by bolts that penetrate the sidewalk or boulevard surface;
- i. have a fence that is easily and immediately removable for emergency or operational needs;
- j. have an opening in the fence to provide access to the patio and access to the main entrance of the business, which shall be a minimum of 1.2m wide;
- k. be completely removed and stored off-site before the permit is issued and immediately following the expiration of the permit;
- l. not have any heating device(s) where located on the municipal boulevard ;
- m. not permit smoking;
- n. not have any music playing (live or amplified) where located on the municipal boulevard;
- o. permitted to have temporary lighting subject review and approval of the method of wiring / source of power. Where permitted, lighting shall be installed to avoid glare and light spill to adjacent properties, roads and public areas;
- p. prohibited from displaying signs, hoardings or other advertising material on the fence or on umbrellas. Any signage shall be subject to the City's Signage By-law;



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- q. permitted to include umbrellas or awnings provided a minimum vertical clearance of 2.4m above grade is provided and maintained;
- r. prohibited from causing removal of or damage to any municipal street tree. No person shall use a municipal street tree for the purpose of securing patio fencing or attaching cables, awnings or other paraphernalia associated with an outdoor patio;
- s. in compliance with the City's Patio design Guidelines and Heritage Conservation District Plans where applicable to the satisfaction of The Director of Planning & Urban Design; and
- t. in accordance with all other applicable law.

MAINTENANCE

1. Every person who owns or controls an outdoor patio shall for the duration of the permit period:
 - a. ensure that all patio furniture is neatly stacked and / or safely secured after 11pm each night;
 - b. maintain the patio in a safe, tidy and clean condition at all times, including the removal of any graffiti, posters and third party advertising however affixed to the patio furniture or fencing, within twenty-four (24) hours of becoming aware of the condition;
 - c. immediately remove any garbage or litter accumulation in and around the patio;
 - d. regularly monitor the condition and arrange for maintenance and repair of any damaged sections of fence, broken patio furniture, umbrellas or awnings;
 - e. maintain and replace when required any floral displays or plantings within the area of the patio or mounted on the fence.
2. In the event that a patio is not maintained to the satisfaction of the Director of Operations for a period greater than ten (10) consecutive days, the Director of Operations may require that the applicant remove the patio at no cost to the City.
3. In the event that an applicant abandons a patio, the applicant is responsible for the total removal of all components associated with the patio, including but not limited to the fence, furniture, lighting, waste receptacles, umbrellas or awnings and restoration of the site back to its original condition to the satisfaction of the Director of Operations.
4. The City or any public utility may enter the area occupied by a patio for the purpose of doing any work within the highway.

D. Seizure and Disposal

1. In the event that a patio has been placed, installed or maintained on a highway in a manner that is not compliant with this policy, the permit or the By-law, the City shall provide notice of such non-compliance to the applicant and the applicant shall remove the patio and restore the site within forty-eight (48) hours of receiving the said notice from the City.
2. The City may, at the sole expense of the applicant, require the temporary removal of a patio if the Director of Operations determines, in his/her sole and absolute discretion, that the temporary removal is necessary for:
 - a. the interests of pedestrian, vehicular or public safety;
 - b. to accommodate a special event; or
 - c. to accommodate the construction, maintenance or repair of a highway, transit facilities or a public utility or service.

In the event that a patio needs to be removed pursuant to this section, the City shall provide notice to the applicant seven (7) days prior to the required removal. Said notice shall include details relating to when the patio can be reinstated.



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3. Notwithstanding any other provision of this policy or permit, no prior notice to the applicant shall be required in the event that a patio, in the opinion of the Director of Operations, needs to be removed to prevent an immediate risk to public safety. In such an event, the Director of Operations shall require the applicant to remove the patio immediately.
4. In the event that an applicant fails to remove a patio as required pursuant to this Section D and Section E, the Director of Operations or any person authorized by the Director of Operations may seize and remove from the highway the patio and restore the site. The Director of Operations shall store any patio components so seized, including fencing, furniture etc. and shall return these items to the applicant upon the applicant paying to the City the costs of removal and storage of the patio and restoration of the site, plus administration costs as set out in the By-law.
5. The Director of Operations may dispose of any patio components so seized at the expiry of ninety (90) days from the date notice of the seizure is given to the applicant.
6. The City shall not be liable to an applicant or responsible for any claims, losses, expenses or damages incurred by an applicant in relation to a suspension or revocation of a permit under Section D.

E. Fees

1. Effective January 1, 2014, the fees to be paid for a permit to allow the placement of an outdoor patio on the public right of way and annual renewal of said permit shall be as per the By-law.

6.0 Roles and Responsibilities

Director of Operations

- Policy Sponsor

Manager, Business & Technical Services

- Coordination of interdepartmental activities involved in this policy creation and implementation

Technical Coordinator, Operations

- Process and manage applications for permits for outdoor patios, including the collection of fees
- Conduct inspections of patios following installation and following removal at the end of the permit period
- Educate permit applicants regarding policy changes
- Development and maintain database to contain application information
- Develop and maintain GIS mapping tool to facilitate management of permitted patio locations
- Disseminate information to all interested departments.

Director of Planning & Urban Design

- Provide information and guidance relating to the layout and design of proposed patios to applicants in the preparation of plans and supporting documents prior to a permit application being made
- Review the layout and design of patios in accordance with the Design Guidelines
- Ensure that a permit for an outdoor patio meets the requirements of other applicable land use planning or zoning by-law requirements
- Circulate permit applications to Heritage Markham Committee for review and comment when applicable
- Conduct inspections of patios following installation and following removal at the end of the permit period



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Operations Roads Supervisors

- Removal of any non compliant patios after suitable notice given or under hazardous conditions

Provincial By-law officers

- Issue infraction notices as required
- Investigate and identify any patios that are non compliant

APPENDIX "C"

City Initiated Regulations to Permit Outdoor Patios on the Public Right of Way

Highlights of the proposed Design Guidelines for Patios on the Public Right of Way.

The following list provides a summary of the main features of a commercial patio on public property that will be specified through the comprehensive design guidelines being prepared by urban design staff.

1. Patios shall be at grade for unobstructed access. Where this is not feasible patios shall be designed to be accessible to all users in accordance with the Accessibility Design Guidelines.
2. Metal, wood or other solid attractive design of patio furniture should be used; plastic furniture is generally not appropriate.
3. Planter boxes mounted on perimeter fences are encouraged and other free standing planters are encouraged provided these do not obstruct safe public access and are readily removable.
4. Maintenance of plant material is the sole responsibility of the business owner / operator.
5. Design of temporary lighting shall complement the general style of the patio furnishings and streetscape context.
6. Umbrellas are permitted subject to vertical clearances and shall be in keeping with the general style of patio furnishings and streetscape context. Third party advertising on umbrellas in Heritage Conservation Districts is discouraged.
7. Patio type A fencing shall be installed between the curb and patio, subject to setback requirements and at the flange ends of the patio and between the sidewalk and the patio with a single opening.
8. Patio type B fencing shall be installed between the sidewalk and patio, subject to setback requirements with a single opening.
9. Fences shall be made of dark painted iron, steel, aluminum or decorative metal posts and railings. Plastic or PVC is generally not permitted. Wood picket-style fences are permitted in a Heritage Conservation District where appropriate.
10. Fences shall be secured and attached to larger planter boxes at appropriate intervals and at each corner of the patio. Fences shall not be installed in a manner which requires bolts to penetrate the public sidewalk or boulevard.
11. Properties within Heritage Conservation Districts must also comply with the design guidelines specific to that district.