



**City of Kingston
Report to Council
Report Number 21-231**

To: Mayor and Members of Council
From: Lanie Hurdle, Chief Administrative Officer
Resource Staff: Corporate Management Team
Date of Meeting: September 7, 2021
Subject: Downtown Improvement Plan

Council Strategic Plan Alignment:

Theme: 5. Foster healthy citizens and vibrant spaces

Goal: See above

Executive Summary:

The City of Kingston and many of its partners have implemented a number of initiatives in the last couple of years to improve and make the downtown more vibrant. Although some of these initiatives, such as Love Kingston Marketplace, have been successful, staff and partners have raised concerns with homelessness, safety and security as well as cleanliness. Staff and partners recognize that these issues impact people's lives and could threaten business and downtown vitality.

Staff and partners recognize that a different approach and supports are required to improve both the lives of vulnerable people in the downtown and the livelihood of businesses. Having a downtown where residents, tourists, businesses and all others can feel safe and secure, while providing the compassionate care and supports to those less fortunate and in need, is vital to the overall health of our city and residents. These outcomes are not mutually exclusive. In fact, they are very much linked. There are a number of elements involved and having an active, vibrant, successful downtown that is welcoming to all people requires addressing it in a more encompassing, respectful manner. Bringing many stakeholders together is a foundational means to start developing those solutions.

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Staff will set up a focus group and consultation with partners to explore potential collaborative solutions that will provide better support to people and businesses. Staff will also ensure that people with lived experience can provide feedback through an outreach process. It is expected that staff will report back to Council within five (5) months with an action plan that will include short- and longer-term initiatives to be collectively implemented by the City and its partners.

This report also addresses a City-wide initiative identified in the Love Kingston Marketplace Report presented to Council on February 16, 2021 to better support the food and beverage industry. As part of that report, Council approved the issuance of temporary permits for patios located on municipal sidewalks. In order to support business recovery during the pandemic, City staff have adopted a similar flexible approach to temporary patios located on private property, both downtown and in other parts of the city, as it relates to zoning compliance. This approach is consistent with the intent of legislation enacted by the provincial government under the *Reopening Ontario (A Flexible Response to COVID-19) Act*, which allows municipalities to pass by-laws authorizing the temporary use of land for patios under Section 39 of the *Planning Act*. As the City looks at exploring potential collaborative solutions to better support people and businesses, this report also recommends the enactment of a temporary use by-law to continue the City's flexible approach toward temporary patios on private property, both downtown and in other parts of the city, for the winter patio season.

Recommendation:

That "A By-Law to Authorize the Temporary Use of Land, Buildings or Structures within the City of Kingston for Temporary Outdoor Patios", attached as Exhibit A to Report Number 21-231, be presented to Council for all three readings.

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Authorizing Signatures:

ORIGINAL SIGNED BY CHIEF
ADMINISTRATIVE OFFICER

**Lanie Hurdle, Chief
Administrative Officer**

Consultation with the following Members of the Corporate Management Team:

Paige Agnew, Commissioner, Community Services

Peter Huigenbos, Commissioner, Business, Environment & Projects

Brad Joyce, Commissioner, Corporate Services

Jim Keech, President & CEO, Utilities Kingston

Not required

Desirée Kennedy, Chief Financial Officer & City Treasurer

Sheila Kidd, Commissioner, Transportation & Public Works

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Options/Discussion:**Downtown Improvement Plan**

The COVID-19 pandemic has had impacts on residents and businesses over the last 18 months. Many businesses in the downtown core rely heavily on post-secondary students, visitors, tourists, and workers in the vicinity as a basis for their revenues. Certainly, the lockdowns and other behavioural effects from the pandemic have significantly reduced those customer sources with the hardest hit being those in the hospitality, tourism and service sectors.

Following the Council approval of [Report Number 21-056](#), the City and partners have implemented a number of initiatives through Love Kingston Marketplace to better support downtown businesses. This has included expansion of downtown patios, business booths in the Springer Market Square, family programming in the Springer Market Square and some live music. Report Number 21-056 also included the extension of patio season on sidewalks until March 31, 2022. This recommendation did not include food and beverage businesses that operate a patio on private property. Staff recognize that this was missed in Report Number 21-056 and are therefore including a recommendation to add patios on private properties that are zoned commercial for restaurant use.

More recently, the Kingston Economic Recovery Team (KERT) held a strategic planning session to redefine its objectives for the next year. Through this process, the KERT identified downtown as an economic engine and the importance of its revitalization.

It is also well known that the pandemic has had a detrimental effect on those less fortunate in our society. Several social services agencies and City staff have observed a greater number of people experiencing homelessness as well as having addictions and mental health issues. The increase in individuals requiring supports for housing, mental health and addictions was raised by the Social Services Recovery Team and they noted in particular that the number of vulnerable people present in the downtown has risen.

Unfortunately, this has led to people (business staff, customers, visitors) feeling threatened and intimidated by some behaviours. Complaints of needles, human waste, litter and garbage has also been common as have issues of vandalism.

There have been a number of discussions and potential solutions that could be implemented to better support the vulnerable populations in our downtown to improve their well-being. These should be examined and developed in concert with efforts to boost our local economy and improve the downtown core for all. Bringing stakeholders together is foundational to move forward on that and will maximize the efforts of all involved.

Staff will establish a focus group with representatives from businesses and social agencies to identify solutions that will ensure a better quality of life for people downtown and better supports for businesses. Staff will ensure that people with lived experience are consulted through this process.

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A final report with recommended actions will be submitted to Council within the next five (5) months.

Extension of Patio Permissions

This report also addresses a City-wide initiative identified in the Love Kingston Marketplace Report presented to Council on February 16, 2021 to better support the food and beverage industry. As part of that report, Council approved the issuance of temporary permits for patios located on municipal sidewalks. In order to support business recovery during the pandemic, City staff have adopted a similar flexible approach to temporary patios located on private property, both downtown and in other parts of the city, as it relates to zoning compliance. During the pandemic, City staff have issued temporary patio permits for the establishment or extension of patios on private property where associated with a permitted use under the zoning by-law, subject to the City's review and approval of a site plan depicting the location of the patio.

This approach is consistent with the intent of legislation enacted by the provincial government under the *Reopening Ontario (A Flexible Response to COVID-19) Act*, which allows municipalities to pass by-laws authorizing the temporary use of land for patios under Section 39 of the *Planning Act*. Temporary use by-laws enacted under Ontario Regulation 34/520 are exempt from the statutory requirements for public meetings, availability of information in advance of a meeting, and public notices, and are not appealable to the Ontario Land Tribunal. The effect of Ontario Regulation 345/20 is to ease zoning restrictions and allow the quick establishment or extension of restaurant and bar patios in order to support business recovery during the pandemic.

As the City looks at exploring potential collaborative solutions to better support people and businesses, this report also recommends the enactment of a temporary use by-law to continue the City's flexible approach toward temporary patios on private property, both downtown and in other parts of the City, for the 2022 patio season. The temporary use by-law will expire on December 31, 2022, at which time all outdoor patios will be subject to the requirements of the zoning by-laws.

Existing Policy/By-Law:

None

Notice Provisions:

None

Accessibility Considerations:

None

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Financial Considerations:

Staff anticipate that there may be some costs to facilitate the development of the plan which will be covered through existing operating and capital budgets.

Contacts:

Lanie Hurdle, Chief Administrative Officer 613-526-4291 extension 1231

Other City of Kingston Staff Consulted:

Craig Desjardins, Director, Strategy, Innovation & Partnerships

Jenna Morley, Director, Legal Services & City Solicitor

Exhibits Attached:

Exhibit A - A By-Law to Authorize the Temporary Use of Land, Buildings or Structures within the City of Kingston for Temporary Outdoor Patios

Exhibit B - Letter of Support for Temporary Patios from Tourism Kingston

By-Law Number 2021-XX

A By-Law to Authorize the Temporary Use of Land, Buildings or Structures within the City of Kingston for Temporary Outdoor Patios

Passed: [Meeting Date]

Whereas pursuant to Section 39 of the *Planning Act*, the council of a municipality may, in a zoning by-law passed under Section 34 of the *Planning Act*, authorize the temporary use of land, buildings or structures for such purposes as set out therein, limited to a period not exceeding three years;

And Whereas Ontario Regulation 345/20 made under the *Emergency Management and Civil Protection Act*, and continued under the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020*, authorizes the council of a municipality to pass a by-law allowing for the temporary use of land for a restaurant or bar patio pursuant to Section 39 of the *Planning Act* and exempts the by-law from subsections 34(12) to (14.3), (14.5) to (15) and (19) of the *Planning Act*;

And Whereas the Council of The Corporation of the City of Kingston considers it desirable to enact a temporary use by-law to permit temporary outdoor patios in the City of Kingston in connection with COVID-19 pandemic recovery efforts;

Therefore be it resolved that the Council of The Corporation of the City of Kingston hereby enacts as follows:

1. For purposes of this By-Law:
 - (a) **“COVID-19 Health Measures”** means any regulation, guideline, order and/or directive published by the Ontario Ministry of Health and Long-Term Care, the Chief Medical Officer of Health and/or by the Medical Officer of Health for Kingston, Frontenac, Lennox and Addington, relating to the control of COVID-19; and
 - (b) **“Temporary Outdoor Patio”** means an area located on private property that is not an enclosed public space or an enclosed workplace and that meets the following criteria:
 - (i) the public is ordinarily invited or permitted access to the area, either expressly or by implication, whether or not a fee is charged for entry, or the area is worked in or frequented by employees during the course of their employment, whether or not they are acting in the course of their employment at the time;
 - (ii) food or drink is served or sold or offered for consumption in the area, or

**Exhibit A to Report Number 21-231
City of Kingston By-Law Number 2021-XX**

the area is part of, or operated in conjunction with, an area where food or drink is served or sold or offered; and

- (iii) the area is not primarily a private dwelling.
2. Despite any provision of City of Kingston Zoning By-Law Numbers 8499, 96-259, 97-102, 76-26 and 32-74 (collectively, the “**Zoning By-Laws**”), a Temporary Outdoor Patio is permitted in any zone, other than a residential zone, as accessory to a permitted use, subject to the following:
 - (a) submission of a site plan, to the satisfaction of the City’s Director of Planning Services, and establishment of the Temporary Outdoor Patio in accordance with the approved site plan;
 - (b) receipt of a temporary patio permission permit from the City’s Planning Services Department, and compliance with all terms and conditions of such permit; and
 - (c) compliance with all applicable laws, including the *Occupational Health and Safety Act*, the *Liquor Licence Act*, and the regulations made under them, and all COVID-19 Health Measures.
 3. Despite anything to the contrary contained in the Zoning By-Laws, the following provisions apply to the establishment or expansion of a Temporary Outdoor Patio, and any temporary structures accessory thereto:
 - (a) a Temporary Outdoor Patio may be located in a required parking area, parking lot, parking space or drive aisle of the use that the Temporary Outdoor Patio is accessory to, except a Temporary Outdoor Patio shall not occupy any accessible parking spaces or block any fire route or emergency access;
 - (b) a Temporary Outdoor Patio shall be exempt from the requirements for the provision of parking spaces; and
 - (c) a Temporary Outdoor Patio shall be exempt from zoning provisions related to setbacks from residential zones or street lines.
 4. The Director of Planning Services or their designate is hereby authorized to issue temporary patio permission permits, on terms and conditions specified by the Director of Planning Services, as required pursuant to this By-Law.
 5. Upon the expiry of this By-Law, the provisions of the Zoning By-Laws, unamended by this By-Law, shall apply.
 6. This By-Law shall expire on December 31, 2022 in accordance with Section 39 of the *Planning Act*, unless otherwise extended by resolution of Council.

**Exhibit A to Report Number 21-231
City of Kingston By-Law Number 2021-XX**

Given all Three Readings and Passed: [Meeting Date]

**John Bolognone
City Clerk**

**Bryan Paterson
Mayor**



August 27, 2021

RE: Tourism Working Group and Tourism Kingston’s support of patio expansion on public and private properties in 2021 and beyond

Dear CAO Lanie Hurdle,

CC: Sheila Kidd, Commissioner of Transportation & Public Works

Tourism Kingston and the Tourism Working Group would like to thank the City of Kingston for its continued support of citywide year-round expanded patios. Partner agencies and committees like the Tourism Working Group are committed to supporting the year-over-year improvement in the expanded patios format for fall/winter 2021/22 and beyond.

On September 1, Tourism Kingston will roll out its fall marketing campaign, which features Kingston’s wonderful outdoor culinary experiences. Kingston’s outdoor patio dining options, on both public and private properties, are a huge draw for both Kingston residents and visitors. Outdoor patios are part of the Kingston experience. We have seen tremendous success in the recent patio expansion program, which has benefited local restaurants otherwise struggling to stay open during the pandemic and limited in their indoor dining options. Our hope is that with this significant investment in the “Get Closer” fall campaign for Kingston, we will see even more support of our restaurants’ *plein air* experiences, providing much-needed stability for this sector, and a beneficial economic impact for our community.

The patio extensions will be just as important moving into the winter months, as more Kingston restaurants expand their offerings to include sheltered winter patio dining experiences. Kingston is a wonderful four-season destination for visitors: everything we can do to support our local small businesses in the tourism “shoulder seasons” will benefit our community.

Sincerely,

Tourism Kingston staff
Members of the Tourism Working Group

