

**2. NEW RIGHT OF WAY PATIO PROGRAM AND EVALUATION OF
STREETSIDE SPOTS PILOT PROGRAM**

**NOUVEAU RÈGLEMENT SUR LES TERRASSES SUR EMPRISE ET
PROGRAMME PILOTE D'ÉVALUATION DES PLACETTES SUR RUE**

COMMITTEE RECOMMENDATIONS AS AMENDED

That Council:

- 1. Approve the Right of Way Patio By-law, as set out in this report and attached as Document 1, and authorize the City Clerk and Solicitor, in consultation with the General Manager of Planning, Infrastructure and Economic Development, to make minor revisions and amendments to the By-law as may be required;**
- 2. Approve the amended fee structure for Outdoor (Right of Way) Patios, Café seating, and Parklets as set out in Document 2;**
- 3. Approve the phased-in application of the proposed Right of Way Patio By-law whereby:**
 - i. Applications for new patios and parklets are subject to the proposed Right of Way Patio By-law; and,**
 - ii. Applications for the renewal of existing patios and parklets are subject to the provisions of the new By-law except for the requirements regarding the Accessibility Design Standards and pedestrian clearway, which are deferred for a one year transition period for both the Summer 2017 and Winter 2017-18 patio seasons, as described in the report;**
- 4. Direct that staff bring forward to Transportation Committee in February 2018 a report on the progress made in designating the**

pedestrian clearway adjacent to all existing patios and the progress of those patios in meeting the relevant sections of the City of Ottawa Accessibility Design Standards.

5. Approve:

1. A waiver of Subsection 19(1) of the Noise By-law (By-law 2004-253, as amended) to permit the use of noise amplification devices on all types of ROW patios subject to the proposed ROW Patio By-law (Document 1); and,

2. That Sections 7 and 8 of the proposed ROW patio By-law (Document 1) be struck out and replaced with the following Sections:

7. (1) A first-time application for a new ROW patio that is a front a curbside or a streetside patio with a proposed separation of less than 90m from a property zoned as residential or mixed residential/Commercial will be processed as follows:

(a) Residents and residential property owners within the 90m distance, the local Business Improvement Area and any local community association registered with the City of Ottawa will be notified by letter of the proposed ROW patio, and provided with a copy of the proposed plan for the ROW patio, with the following conditions:

(i) comments from residents and residential property owners must be received by the General manager within fifteen (15) working days of receipt of the letter; and,

(ii) the Ward Councillor shall be informed of the application;

- (b) If no objections to the proposed ROW patio are received, the General Manager may issue a permit in accordance with this by-law.**
- (c) An objection to an aspect of the ROW patio that meets this by-law will be considered as resolved.**
- (d) The General Manager shall use conditions of the permit to resolve objections, and an objection to an aspect of the ROW patio that can be enforced as a condition of the permit will be considered as resolved.**
- (e) Where one or more objections remain, the General Manager shall report to the City's Transportation Committee, which shall approve, approve with conditions, or refuse approval of the permit for the ROW patio, and,**

 - (i) the applicant and any objector will be notified of the time and date that the report is to be considered at Transportation Committee; and,**
 - (ii) the Transportation Committee decision shall be final.**
- (2) Any conditions or requirements related to noise or noise attenuation imposed on a pre-existing front, curbside or streetside patio in a permit granted by the City prior to the coming into force of this by-law shall continue and be imposed on any permit issued under this by-law for such a patio.**
- (3) A ROW patio permit issued for a new patio within 30m of any property zoned as residential or mixed residential/ Commercial shall include the provision that the ROW patio is required to close each night by 11:00 p.m., and**

that no patrons are permitted on the ROW patio after this time.

(4) A ROW patio permit issued for a new patio within 30m of any property zoned as residential shall include the provision that audio speakers on the patio must be turned off by 11:00 p.m. nightly.

8. The General Manager will review any noise-related complaints by a property owner or a tenant of a dwelling on a property zoned as residential or mixed residential/Commercial concerning a ROW patio, and:

(i) will advise the ROW permit holder of the complaints;

(ii) the permit holder shall have ten (10) days within which to improve the situation; and,

(iii) if the General Manager deems it necessary, may impose on the ROW patio permit in question one or more conditions to mitigate the noise complaint, including but not limited to:

a. requiring the ROW patio to close each night by 11:00p.m., and that no patrons are permitted on the ROW patio after this time;

b. requiring that audio speakers on the ROW patio must be turned off by 11:00 p.m. nightly; or

c. requiring noise attenuation measures be implemented in respect of the ROW patio;

6. Approve that the definition of “pedestrian clearway” in Section 1 of Document 1 be struck out and that the following definition be substituted:

“pedestrian clearway” means a clear and unencumbered area of the highway approved by the General Manager that is reserved for pedestrian traffic;

- 7. Approve that up to \$18,000 of the 2017 patio permit program revenue be made available to provide for seasonal enforcement staff resources for the 2017 summer patio season to augment enforcement of the Noise By-law and other applicable by-laws.**

RECOMMANDATIONS DU COMITÉ, TELLES QUE MODIFIÉES

Que le Conseil :

- 1. Approuve le Règlement sur les terrasses sur emprise, ci-joint en tant que document 1, tel qu'énoncé dans le présent rapport, et autoriser le greffier municipal et avocat général, en consultation avec le Directeur général de la planification, de l'infrastructure et du développement économique, à apporter des modifications et des révisions mineures au Règlement;**
- 2. Modifie le nouveau barème des droits pour les permis de terrasse, de petites terrasses de café et de miniparcs (sur emprise), comme l'expose le document 2;**
- 3. Approuve la mise en œuvre échelonnée du projet de Règlement sur les permis de terrasse sur emprise prévoyant que :**
 - i. les demandes en vue de créer de nouvelles terrasses ou de nouveaux miniparcs seront examinées en fonction de ce nouveau règlement;**
 - ii. les demandes de renouvellement pour des terrasses ou des miniparcs existant seront examinées en fonction de ce nouveau règlement, à l'exception des exigences visant les Normes de conception accessible et les voies piétonnes dont l'application est reportée d'une période de transition d'un an**

pour l'été 2017 et l'hiver suivant, comme l'expose le présent rapport;

4. Charger le personnel de soumettre en février 2018 un rapport au Comité des transports, présentant l'état d'avancement de l'aménagement des voies piétonnes adjacentes à toutes les terrasses existantes et l'état d'avancement des terrasses en vue de respecter les parties pertinentes des Normes de conception accessible adoptées par la Ville d'Ottawa.
5. Approuve :
 1. Une dérogation au paragraphe 19(1) du Règlement sur le bruit (n° 2004-253, dans sa version modifiée) permettant l'utilisation de systèmes d'amplification du son dans tous les types de terrasses sur emprise soumis au Règlement sur les terrasses sur emprise proposé (document 1);
 2. Le remplacement des articles 7 et 8 du Règlement sur les terrasses sur emprise proposé (document 1) par les articles suivants :
 7. (1) Une première demande pour une nouvelle terrasse sur emprise en façade, en bordure de trottoir ou en bordure de rue qui se situerait à moins de 90 m d'une propriété de zonage résidentiel ou mixte (résidentiel/commercial) sera traitée de la façon suivante :
 - (a) les résidents et les propriétaires résidentiels situés dans le rayon de 90 m de la terrasse projetée, ainsi que la Zone d'amélioration commerciale et toute association communautaire locale inscrite à la Ville d'Ottawa recevront un avis écrit concernant la terrasse sur emprise projetée

ainsi qu'une copie des plans proposés,
selon les modalités suivantes :

- (i) les commentaires des résidents et des propriétaires résidentiels doivent être transmis au directeur général dans les quinze (15) jours ouvrables suivant la réception de l'avis;
- (ii) le conseiller de quartier doit être avisé de la demande;
- (b) s'il ne reçoit aucune objection à la terrasse sur emprise projetée, le directeur général pourra délivrer un permis conformément au présent règlement;
- (c) toute objection à un aspect de la terrasse sur emprise proposée qui respecte le présent règlement sera rejetée;
- (d) le directeur général doit résoudre les objections fondées au moyen des modalités de permis; toute objection à un aspect de la terrasse sur emprise projetée pouvant être résolue par une modalité de permis sera considérée comme résolue;
- (e) si une ou plusieurs objections demeurent, le directeur général fera rapport au Comité des transports de la Ville, qui approuvera, approuvera sous certaines conditions ou refusera le permis de terrasse sur emprise;
 - (i) le demandeur et tout opposant seront avisés de la date et de l'heure de

l'examen du rapport par le Comité des transports;

(ii) la décision du Comité des transports sera sans appel.

(2) Toute condition ou exigence concernant le bruit ou les mesures d'atténuation du bruit imposées pour une terrasse en façade, en bordure de trottoir ou en bordure de rue déjà existante qui est prévue par un permis accordé par la Ville avant l'entrée en vigueur du présent règlement continuera de s'appliquer et sera maintenue dans tout permis délivré pour la terrasse en question en vertu du présent règlement.

(3) Tout permis délivré pour une nouvelle terrasse sur emprise située dans un rayon de 30 m d'une propriété de zonage résidentiel ou mixte (résidentiel/commercial) doit prévoir une disposition exigeant que la terrasse ferme chaque soir avant 23 h et qu'aucun client n'y demeure après cette heure.

(4) Tout permis délivré pour une nouvelle terrasse sur emprise située dans un rayon de 30 m d'une propriété de zonage résidentiel doit prévoir une disposition exigeant que les haut-parleurs de la terrasse soient éteints avant 23 h chaque soir.

8. Le directeur général examinera toute plainte liée au bruit visant une terrasse sur emprise qui a été formulée par le propriétaire ou le locataire d'une résidence située sur une propriété de zonage résidentiel ou mixte (résidentiel/commercial) et :

(i) il en avisera le détenteur de permis;

- (ii) le détenteur de permis aura dix (10) jours pour corriger la situation;
- (iii) le directeur général, s'il le juge nécessaire, pourra imposer une ou plusieurs conditions au permis de terrasse sur emprise en question pour réduire les plaintes sur le bruit, par exemple :
 - a. exiger que la terrasse sur emprise ferme chaque soir avant 23 h et qu'aucun client ne puisse y demeurer après cette heure;
 - b. exiger que les haut-parleurs de la terrasse sur emprise soient éteints avant 23 h chaque soir;
 - c. exiger que des mesures d'atténuation du bruit soient mises en œuvre sur la terrasse sur emprise.

6. Approuve que la définition de « voie piétonne » à la Section 1 du Document 1 soit biffée et remplacée par la définition suivante :

« voie piétonne » signifie une partie de la voie publique dégagée et non encombrée, approuvée par le directeur général, et qui est réservée à la circulation piétonne;

7. Approuve qu'au plus 18 000 \$ provenant des recettes des permis de terrasse de 2017 seront affectés au personnel saisonnier d'application des règlements pour la saison estivale 2017, pour qu'il puisse faire respecter le *Règlement sur le bruit* et tout autre règlement applicable.

FOR THE INFORMATION OF COUNCIL

The Committee approved the following Directions to Staff:

1. Direct that when the Design Review Team considers applications for new patios that they consider urban design objectives for the street or street segment and where desired, seek a pedestrian clearway of more than 2.0 metres.
2. Direct that staff work to limit the number of exceptions to the City of Ottawa Accessibility Standards or this By-law and report on any of these exceptions proposed to be granted in February 2018.
3. Direct staff to track all additional costs of winter maintenance and report back to the Transportation Committee in February 2018.

POUR LA GOUVERNE DU CONSEIL

Le Comité a donné l'instruction suivante au personnel :

1. Que lors de l'examen de demandes pour de nouvelles terrasses, l'équipe d'examen de la conception tienne compte des objectifs de design urbain pour la rue ou le tronçon de rue concerné et tente de conserver une voie piétonne de plus de 2,0 mètres lorsque cela est souhaitable.
2. Que l'on demande au personnel de s'efforcer de limiter le nombre d'exceptions aux normes d'accessibilité de la Ville d'Ottawa ou au présent règlement municipal et de présenter un rapport en février 2018 sur toute exception qu'on propose d'approuver.
3. Que l'on demande au personnel de faire le suivi de tous les coûts supplémentaires d'entretien hivernal et de présenter un rapport au Comité des transports en février 2018.

DOCUMENTATION / DOCUMENTATION

1. Manager, Right of Way, Heritage and Urban Design Services, Planning, Infrastructure and Economic Development Department's report, dated 22 February 2017 (ACS2017-PIE-RHU-0002)

Rapport du Gestionnaire, Services des emprises, du patrimoine et du design urbain, Direction générale de la planification, de l'infrastructure et du développement économique daté le 22 février 2017 (ACS2017-PIE-RHU-0002).

2. Extract of draft Minutes, Transportation Committee, 1 March 2017.

Extrait de l'ébauche du procès-verbal, Comité des transports, le 1 mars 2017.

Report to
Rapport au:

Transportation Committee / Comité des transports
March 1, 2017 / 1 mars 2017

and Council / et au Conseil
March 8, 2017 / 8 mars 2017

Submitted on February 22, 2017
Soumis le 22 février 2017

Submitted by
Soumis par:

Court Curry, Manager / Gestionnaire

**Right of Way, Heritage and Urban Design Services / Services des emprises, du
patrimoine et du design urbain Planning, Infrastructure and Economic
Development Department / Direction générale de la planification, de
l'infrastructure et du développement économique**

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Ward: CITY WIDE / À L'ÉCHELLE DE LA File Number: ACS2017-PIE-RHU-0002
VILLE

SUBJECT: New Right of Way Patio Program and Evaluation of Streetside Spots
Pilot Program

OBJET: Nouveau Règlement sur les terrasses sur emprise et Programme pilote d'évaluation des placettes sur rue

REPORT RECOMMENDATIONS

That Transportation Committee recommend Council:

- 1. Approve the Right of Way Patio By-law, as set out in this report and attached as Document 1, and authorize the City Clerk and Solicitor, in consultation with the General Manager of Planning, Infrastructure and Economic Development, to make minor revisions and amendments to the By-law as may be required;**
- 2. Approve the amended fee structure for Outdoor (Right of Way) Patios, Café seating, and Parklets as set out in Document 2;**
- 3. Approve the phased-in application of the proposed Right of Way Patio By-law whereby:**
 - i. Applications for new patios and parklets are subject to the proposed Right of Way Patio By-law; and,**
 - ii. Applications for the renewal of existing patios and parklets are subject to the provisions of the new By-law except for the requirements regarding the Accessibility Design Standards and pedestrian clearway, which are deferred for a one year transition period for both the Summer 2017 and Winter 2017-18 patio seasons, as described in the report;**
- 4. Direct that staff bring forward to Transportation Committee in February 2018 a report on the progress made in designating the pedestrian clearway adjacent to all existing patios and the progress of those patios in meeting the relevant sections of the City of Ottawa Accessibility Design Standards.**

RECOMMANDATION DU RAPPORT

Que le Comité des transports recommande ce qui suit au Conseil :

- 1. Approuver le Règlement sur les terrasses sur emprise, ci-joint en tant que document 1, tel qu'énoncé dans le présent rapport, et autoriser le greffier municipal et avocat général, en consultation avec le Directeur général de la planification, de l'infrastructure et du développement économique, à apporter des modifications et des révisions mineures au Règlement;**
- 2. Modifier le nouveau barème des droits pour les permis de terrasse, de petites terrasses de café et de miniparcs (sur emprise), comme l'expose le document 2;**
- 3. Approuver la mise en œuvre échelonnée du projet de Règlement sur les permis de terrasse sur emprise prévoyant que :**
 - i. les demandes en vue de créer de nouvelles terrasses ou de nouveaux miniparcs seront examinées en fonction de ce nouveau règlement;**
 - ii. les demandes de renouvellement pour des terrasses ou des miniparcs existant seront examinées en fonction de ce nouveau règlement, à l'exception des exigences visant les Normes de conception accessible et les voies piétonnes dont l'application est reportée d'une période de transition d'un an pour l'été 2017 et l'hiver suivant, comme l'expose le présent rapport;**
- 4. Charger le personnel de soumettre en février 2018 un rapport au Comité des transports, présentant l'état d'avancement de l'aménagement des voies piétonnes adjacentes à toutes les terrasses existantes et l'état d'avancement des terrasses en vue de respecter les parties pertinentes des Normes de conception accessible adoptées par la Ville d'Ottawa.**

EXECUTIVE SUMMARY

Patios play an important role in the public realm by creating places for residents to connect, relax, and animate our streets. As Ottawa's main shopping and dining streets evolve, patios are increasingly becoming popular. In 2016, 87 applications were

received for patios placed on City sidewalks, known as right of way patios. This is up from 68 patios in 2005. In recognition of this increased interest, in April 2015 Transportation Committee directed staff to remove patio regulation from Encroachment By-law 2003-446 and create a stand-alone Right of Way (ROW) Patio By-law. Also, in 2015, City Council approved a Streetside Spots pilot program for 2016 that permitted private patios, small public parks known as parklets, and vending stalls, to be installed in street parking spaces.

Staff have undertaken an extensive consultation initiative and are proposing a new ROW Patio By-law that will regulate ROW patios, café seating, and parklets.

The new by-law will address and regulate three types of patios – patios directly in front of the building, patios at curbside, or patios at streetside. This will provide the opportunity to make the Streetside Spots pilot program permanent. Café seating will continue to be permitted in accordance with the rules that governed the program previously through the Encroachment By-law. These rules are now folded into the new Right of Way Patio By-law. In addition, it is recommended, as set out in the proposed By-law, that streetside parklets, piloted as part of the Streetside Spots pilot program, be permitted. The program, as set out in the By-law, is recommended to be expanded to allow these public spaces to be permitted beyond the streetside location to in front of the building or at curbside as well.

To encourage year round animation of streetscapes, patios, café seating, and parklets will now be permitted all year. Two seasons are proposed – a summer season from April 1 to October 31 and a winter season from November 1 to March 31 (where applicable). Consideration of winter operations will be included in the approval of any winter permits. Patio applicants will now apply for permits based on a monthly fee as opposed to the current daily fee basis.

With the move to a monthly patio permit model, staff reviewed how fees could be set using the fee calculation model Council adopted in the 2015 Report ([ACS2015-PAI-PGM-0060](#)). With the interest of creating the economic conditions for patios to comply with the new by-law and to further improve Ottawa's public realm, staff are proposing an adjustment to patio fees whereby the summer season (April 1st to October 31st) rate will be \$27.76/m²/month. A winter season (November 1st to March 31st) rate of \$8.94/m²/month is proposed recognizing the lower utility of the ROW due to weather

conditions. In addition, the winter patio fee recognizes that some patio permit holders wish to use the space solely for storage of their patio components.

As a comparison to the current daily rate of \$1.18/ m²/per day the new monthly fee would be the equivalent to a new daily rate of \$0.92/ m²/day in the summer season and \$0.30/ m²/day in the winter season, representing a decrease of patio fees per month of approximately 22 per cent in the summer season for the typical permit holder. The impact of this fee structure change on the overall revenue generated from patio permits will be monitored over 2017 and reviewed as part of the 2018 Budget process.

A standard minimum pedestrian clearway of 2 metres is contained within the by-law. The location of the optimal pedestrian clearway on each street segment will be determined by a street by street segment review undertaken in 2017 by City staff in consultation with the Ward Councillor, permit holder, and where applicable the local Business Improvement Area.

Patios that desire to have a raised platform must now comply with the requirements in the City of Ottawa Accessibility Design Standards. In accordance with changes that have been made to the *Liquor License Act* patio applicants may now propose alternatives to railings, such as visual obstacles or landscaping, to improve the aesthetics of the patio perimeter.

Umbrellas will now be able to extend over the pedestrian clearway at a minimum height of 2.2 metres. For curbside and streetside patios, no umbrellas may extend beyond the area of the patio on the side of the traffic lane. Umbrellas over pedestrian clearways must be closed during rain.

A new requirement of the proposed by-law would require the applicant, where they are not the property owner, to provide the written consent of the property owner for the installation of the patio. This will allow the City to address any costs the City may incur regarding the removal of an unauthorized or non-compliant patio, or removal due to other reasons, to be charged back against the property owner through the tax roll.

Under the Streetside Spots pilot program, the streetside spots were allowed to partially front on adjacent properties with the consent of the adjacent property owner. The ability to extend patio and parklet locations beyond the immediate frontage of the applicant's

business will be allowed under the new by-law, with the written consent of the adjacent property owner.

Audio speakers on patios will be permitted provided that they abide by the provisions of the Noise By-law. Provisions for the suspension of patio permits have been provided in the by-law for non-compliance.

It is recognized that 2017 will be a year of transition for existing patio owners as pedestrian clearways are identified and applicants explore opportunities and design options related to the new program and the two season approach to permits. 2017 is also an important year for City celebrations and as such minimal disruption to business owners is also desired.

It is proposed that all applications for the creation of a new ROW patio or parklet received on or after Council approval of this report be subject to the regulations of the proposed, new ROW Patio By-law. For those applicants seeking the renewal of an existing patio, it is proposed that those permits be renewed on the basis of the design and footprint conditions of their previous approval. This will mean that some current patios will not be required to comply with the City of Ottawa Accessibility Design standards or the 2.0-metre pedestrian clearway recommended in the proposed By-law and as such existing (renewal) patios are proposed to be exempted from these specific components of the new by-law for the summer 2017 and winter 2017-18 patio season, specifically Sections 5(2) and 5(4)(a), (b) and (e) relating to the Accessibility Design Standards and the designation of the 2.0-metre pedestrian clearway. Over the course of 2017 staff will work with each of the renewal applicants that do not currently meet the requirements of the new by-law to determine how their patio can become in compliance with the new by-law for the 2018 summer season.

Progress on designating pedestrian clearways and the implementation of all accessibility standards for existing patios will be brought forward in a report to Transportation Committee in February 2018 for Committee and Council consideration

RÉSUMÉ

Les terrasses jouent un rôle important dans le domaine public, en permettant aux résidents de se retrouver et se détendre, et en animant nos rues. Au fur et à mesure qu'évoluent les principales rues bordées de commerces et de restaurants, les terrasses

gagnent en popularité. En 2016, 87 demandes ont été reçues en vue d'aménager des terrasses sur les trottoirs municipaux, appelées terrasses sur emprise, contre seulement 68 terrasses en 2005. Face à ce nouvel intérêt, le Comité des transports a mandaté le personnel en avril 2015 de supprimer la réglementation sur les terrasses du Règlement en matière d'empiétement sur les voies publiques 2003-446 et de créer un règlement municipal distinct pour les terrasses sur emprise. Toujours en 2015, le Conseil municipal a approuvé la mise en place d'un programme pilote d'évaluation des placettes sur rue, des petites places publiques appelées miniparcs et des kiosques sur rue, installés dans des places de stationnement sur rue.

Le personnel a entrepris une vaste initiative de consultation et propose un nouveau Règlement sur les terrasses sur emprise afin de réglementer les terrasses sur emprise, les petites terrasses de café et les miniparcs sur rue.

Le nouveau règlement visera et régira l'aménagement de trois types de terrasse, notamment devant les immeubles, en bordure de trottoir ou sur rue, pérennisant ainsi le programme pilote des placettes sur rue. Les petites terrasses de café continueront d'être autorisées conformément aux règles qui régissaient le programme dans le cadre du Règlement en matière d'empiétement sur les voies publiques, et qui sont désormais consignées dans le nouveau Règlement sur les terrasses sur emprise. En outre, il est recommandé, tel qu'énoncé dans le projet de règlement, que les miniparcs en bordure de rue, examinés dans le cadre du programme pilote d'évaluation des placettes sur rue, soient autorisés. Il est aussi recommandé d'étendre ce programme, comme le prévoit le Règlement, afin d'autoriser les placettes publiques au-delà des abords de la rue, à savoir également à l'avant des immeubles et en bordure de rue.

Pour encourager l'animation en permanence du paysage urbain, les terrasses, les petites terrasses de café et les miniparcs sur rue seront dorénavant autorisés toute l'année. Un découpage en deux saisons est proposé, l'une estivale du 1^{er} avril au 31 octobre et l'autre hivernale du 1^{er} novembre au 31 mars. Les demandeurs de permis de terrasse pourront à présent effectuer des demandes mensuelles plutôt que quotidiennes.

Avec l'adoption d'un modèle d'attribution mensuelle de permis de terrasse, le personnel a cherché à établir les droits à partir du modèle de calcul adopté par le Conseil dans le rapport de 2015 (ACS2015-PAI-PGM-0060). Afin de créer les conditions économiques

permettant la conformité des terrasses au nouveau règlement municipal et d'améliorer encore le domaine public d'Ottawa, le personnel propose d'ajuster les droits de permis de terrasse selon un taux saisonnier, celui de la saison estivale s'élevant à 27,76 \$ par m² et par mois. Un taux de saison hivernale de 8,94 \$ par m² et par mois est proposé, compte tenu de la fréquentation plus faible en hiver ou du fait que certains titulaires de permis de terrasse souhaitent utiliser l'espace aux seules fins de stockage de leur matériel de terrasse.

En comparaison du taux quotidien actuel de 1,18 \$ par m² par jour, ce taux nouveau taux quotidien serait de 0,92 \$ par m² par jour pendant la saison estivale et de 0,30 \$ par m² par jour en hiver, soit une diminution des droits mensuels d'environ 22 pour cent en été pour un titulaire de permis classique. Les effets des modifications au barème des droits sur les recettes tirées des permis pour les terrasses seront évalués en 2017 et examinés dans le cadre du processus budgétaire de 2018.

Une voie piétonne minimale normalisée large de deux mètres est prévue par ce règlement. L'emplacement optimal de cette voie piétonne dans chaque tronçon de rue sera déterminé dans le cadre d'un examen de tous les tronçons routiers entrepris en 2017 par le personnel de la Ville, en consultation avec le conseiller municipal du quartier, le titulaire du permis et, le cas échéant, la zone d'amélioration commerciale concernée.

Les requérants souhaitant aménager une terrasse surélevée doivent se conformer aux Normes de conception accessible de la Ville d'Ottawa. Conformément aux changements apportés à la Loi sur les permis d'alcool de l'Ontario, ils peuvent proposer des solutions de rechange à l'installation de balustrades, notamment des obstacles visuels ou des éléments d'aménagement paysager, afin d'embellir le périmètre de la terrasse.

Il sera également possible d'installer des parasols au-dessus des voies piétonnières, à une hauteur minimale de 2,2 m. En revanche, pour les terrasses et les placettes en bordure de rue, il sera impossible d'en aménager au-delà de l'aire de la terrasse longeant la voie de circulation. Il faudra aussi fermer les parasols surplombant les voies piétonnières en cas de pluie.

En vertu d'une nouvelle disposition du projet de règlement, le demandeur d'un permis visant l'aménagement d'une terrasse, s'il n'est pas le propriétaire du bien-fonds concerné, devra fournir le consentement écrit de ce dernier. Grâce à cette mesure, la Ville pourra faire face aux coûts qu'elle est susceptible d'encourir pour démanteler une terrasse non autorisée ou non conforme, ou pour tout autre motif, et le facturer ensuite au propriétaire du bien-fonds grâce au rôle d'impôt foncier.

Le programme pilote des placettes sur rue a permis d'autoriser leur aménagement à l'avant d'une partie des propriétés adjacentes, à condition que le propriétaire du bien-fonds adjacent y consente. Le nouveau règlement autorise également l'élargissement des terrasses et autres miniparcs au-delà de la façade immédiate du commerce du requérant, à condition que le propriétaire du bien-fonds adjacent y consente.

Les haut-parleurs seront autorisés sur les terrasses à condition qu'ils soient conformes aux dispositions du Règlement sur le bruit. Les dispositions relatives à la suspension des permis de terrasse figurent dans le règlement aux fins de non-conformité.

On sait que l'année 2017 constituera une année transition pour les propriétaires de terrasse actuels, à mesure que l'on identifie les voies piétonnières et que les demandeurs étudient les possibilités et les options de conception que le nouveau programme leur offre et l'approche à adopter pour les permis des deux prochaines saisons.

Il est proposé d'assujettir toutes les demandes de création d'une terrasse sur emprise ou d'un miniparc reçues à Ottawa à ce projet de nouveau Règlement sur les terrasses sur emprise, et ce, dès la date de son approbation par le conseil ou après. Dans le cas des requérants demandant le renouvellement d'un permis de terrasse, il est proposé de renouveler ces permis selon les conditions de leur dernière approbation. Autrement dit, pour certaines terrasses actuelles, ils ne devront pas se conformer aux dispositions des Normes de conception accessible de la Ville d'Ottawa ou des voies piétonnières de 2 m de large qui sont recommandées pour les nouvelles terrasses; on propose donc de dispenser les terrasses existantes (renouvellement de permis) de certains aspects du nouveau règlement pour la saison des terrasses de l'été 2017 et de l'hiver 2017-2018 et, en particulier des alinéas 5 2) et 5 4) a), b) et e) visant les Normes de conception accessible et la désignation des voies piétonnières de 2 m de large. Au

cours de l'année 2017, le personnel collaborera avec chaque demandeur de renouvellement afin de déterminer comment leur terrasse pourrait mise en conformité avec le nouveau règlement municipal pour la saison estivale de 2018.

Un rapport détaillant l'état d'avancement de la conception des voies piétonnières et de la mise en œuvre des normes d'accessibilité pour les terrasses existantes sera soumis au Comité des transports en février 2018, afin d'être examiné par le Comité et le Conseil.

BACKGROUND

Since 2003 temporary outdoor patios on city streets have been regulated by Encroachment By-law 2003-446 as one of six categories of permanent and temporary encroachments. The Encroachment By-law has been amended a number of times since 2003 but has not been the subject of a comprehensive review. In 2015, a review and report to the City's Community and Protective Service Committee identified the Encroachment By-law as a priority for comprehensive review. This report serves as a review of the patio components of that by-law.

During a comprehensive review of patio fees presented to Transportation Committee in April 2015 staff was directed to remove the regulation of ROW patios from the Encroachment By-law and create a new ROW Patio By-law. Over the course of 2016 staff launched a public consultation campaign, met with current patio permit holders, reviewed best practices across Canada, reviewed all provincial and City policy related to patios, and ultimately have arrived at a set of recommendations that aim to balance the desires of patio applicants, patrons, and pedestrians in the right of way.

A Streetside Spots pilot program was also initiated in 2015, with the goal of creating inviting, vibrant, and visually interesting spaces on City streets, while enhancing economic opportunities for business owners, and calming traffic on applicable streets. Eleven applications for Streetside Spots were approved under the pilot program in 2016; seven streetside patios and four streetside parklets. An analysis of the pilot project was undertaken and its recommendations have been included in this report.

DISCUSSION

Review of Right of Way Patio Program

The new Right of Way (ROW) Patio By-law has been crafted to provide flexible design options for patios with the goal of providing the permit holder with the latitude to determine how best to configure the patio for operational needs and aesthetics while introducing a positive addition to the public realm.

Where provincial legislation has changed, regulations have been updated, such as the removal of the requirement for a full perimeter railing around all patios. Where City policy has been updated the regulations have also been amended, such as compliance with the City of Ottawa Accessibility Design Standards (with a deferral until April 1, 2018 for existing/renewal patios, as noted above). As these patios are on public land, it is imperative that these patios are accessible for all Ottawa residents and do not impede the use of this public space by pedestrians.

ROW patios and café seating will no longer be regulated as encroachments under the Encroachment By-law 2003-447. The Streetside Spot pilot program will also be addressed in the new Patio By-law. The proposed major changes to the regulation of patios in the ROW are set out below.

Patio Season

The current patio season is April 15 to September 30 with a fee calculated based on a daily rate of land area occupied in square metres. The permit fee structure was re-evaluated in 2015 and a new fee methodology was approved in a report to Council (ACS2015-PAI-PGM-0060). A fee chronology is set out below:

Year	Fee (per square metre per day)
2013	\$1.37
2014	\$1.23
2015	\$1.18
2016	\$1.18
2017	\$1.18

Patios that are not removed at the end of the current patio season and stay in the ROW effectively act as permanent encroachments but have not historically paid a fee.

Patio permits now will be issued on a monthly basis in two seasons, a summer patio season from April 1 to October 31 and a winter season from November 1 to March 31. Applications for winter season patios will only be approved in locations where the patio can be accommodated by the City of Ottawa's winter operations. Streetside and curbside locations will not be considered for the winter season.

Separate fees have been established for each season. With patios administered on a monthly basis it is anticipated that the administrative process for the issuance of permits will be easier to administer for staff leading to an improved client experience. It is also anticipated that by permitting patios year round operators may, where permitted, wish to leave open their patios should weather conditions be conducive. Permit holders who traditionally left their patios in the ROW now will have to remove the patio or pay the reduced winter season rate in recognition that they are occupying public lands.

The new proposed fees have been determined using the methodology approved by Council in 2015 as follows:

Summer Season

Item/Input	Patio Rent Calculation
Base Restaurant/Retail Rent (\$/m ² annually)	\$300.00
% of Base Restaurant/Rent Appropriate/Applicable to Patio Space	66.0%
Sub-Total: Patio Rent (\$/m ² annually)	\$198.00
Total Patio Days (April 1 – October 31)	214
Adjusted Patio Rent (\$/m ² per month)	\$27.76 (or \$0.92/ m ² per day)

Winter Season

Item/Input	Patio Rent Calculation
Base Restaurant/Retail Rent (\$/m ² annually)	\$300.00
% of Base Restaurant/Rent Appropriate/Applicable to Patio Space	15.0%
Sub-Total: Patio Rent (\$/m ² annually)	\$45.00
Total Patio Days (November 1 – March 31)	151
Adjusted Patio Rent (\$/m ² per month)	\$8.94 (or \$0.30/ m ² per day)

It is anticipated that the proposed season and rate changes will decrease the annual patio permit season fees for a permit holder in the summer season by approximately 22%. The impact of the fee changes on the approval budgetary targets for the program will be monitored in 2017 to examine the impact of the rate change on the elasticity of patio permits and the introduction of the winter season fee. Despite reducing patio fees in 2015 and freezing them for 2016, patio fees have continued to exceed budgetary targets as demonstrated by the table below.

Patio/Streetside Spots Revenues

Year	Budget Target	Actual	Surplus
2014	\$582,130	\$616,601	\$34,471
2015	\$599,594	\$644,297	\$44,703
2016	\$611,490	\$692,295	\$80,803

Per the 2015 report, the above fee calculation methodology will be used to inform the fee structure for future City budgets.

Pedestrian Clearway, Patio Platforms, and Design Review Team

During the program review, the standard width of the pedestrian clearway was one of the subjects that elicited the greatest response. Public comments generally preferred a pedestrian clearway at or wider than two metres. Existing permit holders and Ottawa Council of BIA's responses support the two metre standard only for new approvals with a request for grandparenting of pedestrian clearways for existing patios.

The 2003 Encroachment By-law regulations required a minimum unencumbered sidewalk width of 2.4 to 3.6 metres adjacent to a ROW patio. In practice, most ROW patios were approved with a 1.8-metre unencumbered width to match the minimum width required before 2003 and to match City of Ottawa Accessibility Design Standards. During the Elgin Street Patio Pilot Project a 2.0-metre pedestrian clearway based on high average pedestrian volumes was required, however upon the conclusion of the pilot project the majority of patios were permitted to remain with a 1.8-metre clearway ([ACS2015-PAI-PGM-0077](#)).

Staff is proposing a two metre standard width that balances the interests of the pedestrian with the interests of the patio operating in the public domain. The 2 metre width conforms to the best practice in the City of Ottawa Accessibility Design Standards for exterior paths which sets the minimum at 1.8 metres but states where possible 2 metres should be provided, particularly in high traffic areas.

The location of the appropriate pedestrian clearway on each street segment will be determined by a Design Review Team, a staff working group, comprised of staff from the Planning, Infrastructure and Economic Development, Transportation Services, Public Works and Environmental Services departments along with the Accessibility Office working in consultation with the Ward Councillor and Business Improvement Area. This Design Review Team will also review every new patio application to ensure that the pedestrian clearway is defined for the street segment and that all City operational needs are taken into consideration. By having a coordinated Design Review Team input will be provided to the applicant in a streamlined approach.

Currently there are nine patios that have less than 1.5m pedestrian clearway. A further 11 patios have a pedestrian clearway between 1.5m and 1.8m and another 26 patios have pedestrian clearways between 1.8m and 2.0m. All of these patio locations and the

street segments are proposed to be grandparented for their existing configurations in 2017.

An audit of 2016 ROW patio locations showed that the use of raised wooden platforms is a significant barrier to universal accessibility. In 2016, 40 of 87 ROW patio locations used wooden platforms for their operation, and only two of these locations were universally accessible. Options to improve accessibility include the implementation of an internal permanent ramp, or a temporary, deployable ramp to be provided on request. Locations without raised platforms can provide universal accessibility to the patio. Platforms are proposed to continue to be permitted, should it be desirable by the applicant, however the requirement to meet the Accessibility Design Standards will be mandatory with the onus on the applicant to demonstrate compliance.

It is noted that the Section 80.23 of the Integrated Accessibility Standards enacted under the *Accessibility for Ontarians With Disabilities Act, 2005*, prescribes that newly-constructed or redeveloped exterior paths of travel such as outdoor sidewalks (that are functional rather than recreational) require a minimum clear width of 1,500 mm. Section 80.24 speaks to ramps in the exterior path of travel not exceeding a running slope of 6.7% or a ratio 1:15. Up to nine of 87 existing ROW patios will not be compliance with this minimum clear width within the proposed grandparenting period and most existing patio platforms requiring ramps will not meet this AODA requirement.

Section 80.31 of the *Accessibility for Ontarians With Disabilities Act, 2005*, provides for general exceptions in the exterior path of travel, recognizing that flexibility is built in to the requirements to give organizations the ability to respond to specific local needs and conditions.

Section 80.31 (6) furthermore speaks to the fact that there are at times existing site or physical constraints that legitimately need to be considered when enforcing the Act's minimum requirements. Where the City determines that circumstances require an exception there is a duty to prove why it was necessary and a rationale for explaining why it did not meet a requirement upon request. As most renewal patios have been in existence for many years and must now comply with new legislation staff will thoroughly work with existing patio permit holders over the course of 2017 to determine how they can comply with the AODA and City Accessibility Design Guidelines for the 2018 summer season with the goal of minimizing exceptions. Where physical or site constraints prevent AODA and City Accessibility Design Guideline minimums from being

realized such exceptions will be brought forward to Committee for consideration in the February 2018 Committee report.

Patio Design Options

To date, all ROW patios are located at building face, with the pedestrian clearway located between the ROW patio and the road. This was the only design option available when the Encroachment By-law was enacted in 2003. Amendments to the *Liquor License Act* now permit a server to cross the public sidewalk to a licensed area, allowing curbside and streetside patio design options to be included in the new regulations.

Permit holders may now combine several design options, with the potential to transform the current streetscape. In some locations, both the pedestrian clearway width available and the area of public domain available to the patio permit holder can increase. The proposed patio design options are illustrated in Document 3.

The Encroachment By-law also required that all patios have a railing that met the *Liquor License Act*. Due to changes in provincial legislation a ROW patio may now operate without a railing, but must have a cane detectable item at the leading edge, trailing edge, and every 3 metres. An applicant may propose railings, planters, or other items. City staff will have the authority to request changes to an application, in order to meet a reasonable standard and to meet maximum heights for the perimeter treatment that are required for visual clearance. This authority to request changes is consistent with the existing regulation. The removal of strict requirements for perimeter delineation was supported during the ROW Patio Review.

The previous regulations did not permit umbrellas to extend outside of the approved ROW patio area. In practice, patio operators preferred to use the railings to stabilize umbrellas, and the by-law was not enforced where sufficient clearance from the sidewalk was provided.

The proposed By-law will permit umbrellas to extend over the pedestrian clearway at a minimum height of 2.2 metres. This is consistent with existing practice in many locations, and also with the clearance required in the Streetside Spots pilot program. The regulations will also include a condition that umbrellas over the pedestrian clearway

must be closed when raining, in order to prevent dripping rain water onto the sidewalk, and also closed when the business is closed.

Audio speakers on patios

Currently the ROW Program, through the Encroachment By-law, prohibits the use of speakers on a ROW patio. In practice, many locations have speakers often within the building and facing onto the patio.

The City's Noise By-law regulates the use of speakers over the sidewalk where no ROW patio is located. An annual review of noise related complaints consistently demonstrated that noise from audio speakers was not the subject of service requests.

Given that audio speakers are used on many ROW patios and that audio speakers may be permitted in the ROW where there is no patio, the proposed By-law permits audio speakers on ROW patios. To provide consistency in the interpretation, staff is recommending that the regulation of noise related issues more appropriately resides in the Noise By-law. However the proposed By-law gives the authority to City staff to address specific noise issues arising out of a specific patio location by means of imposing conditions on the patio permit for the purpose of addressing the noise complaint, if such are appropriate in the circumstances.

The use of audio speakers on a ROW Patio was one of the subjects with the most responses during the ROW Patio Review, both positive and negative. There were many that strongly supported the use of audio speakers with conditions for use and strict enforcement. Others strongly supported a regulation that prohibits the use of audio speakers.

Administration

First time applicants will need to submit an application to the General Manager for review by the Design Review Team, including the establishment of the pedestrian clearway in the block segment that the patio is located. Once an application is approved, a permit will be issued on a seasonal basis, based on the number of months that the patio will occupy the public ROW.

Applicants renewing their permits will need to apply for a seasonal permit to cover the time frame that they will be occupying the ROW. Applicants will need to re-apply for the

following season; however these re-applications will be accommodated by simplified processes and forms.

The by-law also contains provisions whereby a permit may be revoked if the permit holder has breached a by-law or a condition imposed on a ROW patio permit. Refunds will only be provided for administrative error.

A new requirement of the proposed by-law would require the applicant for a patio, where they are not the property owner, to provide the written consent of the property owner for the installation of the patio. This will allow the City to address any costs the City may incur due to the occupation of the public road allowance to be charged back against the property owner through the tax roll.

Under the Streetside Spots pilot program, the streetside spots were allowed to partially front on adjacent properties with the consent of the adjacent property owner. This ability to extend patio and parklet locations beyond the immediate frontage of the applicants business will be allowed under the new by-law, with the written consent of the adjacent property owner.

Transition Strategy

Recognizing that 2017 is an important year for our city and the 2017 patio season commences shortly, staff is proposing a phased approach to the implementation of the new by-law.

For 2017, it is proposed that each permit applicant who is applying for a renewal of a previous patio will be exempted from the requirements of the by-law pertaining to the Accessibility Design Standards and the designation of the 2.0-metre pedestrian clearway, and instead the design and footprint requirements/conditions of their previous permits will be grandparented. As a result, such pre-existing patios will be specifically exempted from Section 5(2) and from clauses 5(4) (a), (b) and (e) of the proposed Right of Way Patio By-law until April 1, 2018. Over the course of 2017, and following the identification of block segment pedestrian clearways by the Design Review Team, staff will meet with each applicant to determine how their patio can become compliant with the new by-law for the 2018 summer season. Staff will bring forward to Transportation Committee in February 2018 a report detailing the progress of all current ROW patios in meeting the new By-law.

Applications for new patios will be subject to all of the conditions of the proposed new by-law as of April 1, 2017.

Review of Streetside Spots Pilot Program

Eleven Streetside Spots were opened during the 2016 pilot project – seven private patios and four public parklets. The parklets received partial funding from the City, with financing of up to \$5,000. Funding support for parklets is discontinued for 2017. The Spots were distributed within the inner core of the city. Two of the spots were designed and built by Carleton University students.

There were no applications for the third type of Streetside Spot, the streetside vending stall. The new By-law will not permit vending as permit holders can apply for additional permissions if desired through the use of By-law 2005-358 Vendors on Highways and By-law 2007-478 Designated Spaces for Street Vendors.

Initial concern from City staff that Streetside Spots may create nuisances such as public intoxication, litter, loitering and vandalism were not substantiated during the pilot period. Applicants were responsible for maintenance including keeping the spaces free of debris and abiding by the Noise By-law, which may have reduced these types of impacts.

Streetside Spots Standards

As part of the pilot, standards for Streetside Spots were developed to address City requirements for location selection, design, safety, accessibility and amenity criteria, and the responsibilities of the applicant. The maximum size of the Streetside Spot was the frontage of the permit holder's property unless written permission was provided by the adjacent property owner(s) along which the Spot fronts. Streetside Spots must be located on a street with a speed limit of 50 kilometres per hour or less, in a lane where parking is allowed at all times.

Through the evaluation, the following observations were made with respect to the Streetside Spot standards:

- More attention to universal accessibility and design was needed;

- Increase the review of traffic safety considerations for all Streetside Spots. For example, there was concern with respect to safety considerations at the Beechwood Avenue location;
- Continue to weigh heavily the aesthetic appeal / greenery requirements and better enforce them;
- Improve program coordination with Building Code Services; and
- Pursue better signage for parklets indicating that they are intended for public use.

The Streetside spot standards developed during the pilot will continue to guide the location of Streetside Spots and that their application will be informed by the lessons learned of the pilot. As a result, these standards have been incorporated into the proposed ROW Patio By-law.

Administration and Fees

The Streetside Spots pilot program used fee structures within the Encroachment By-law. Fees for parklets were the same as the café seating permit, and streetside patios paid the same fee as outdoor patio encroachments. For better client service, the Streetside Spots will be regulated as a ROW patio and use the same application process. Application for parklets will follow a similar simplified application process.

Season

During the pilot, Streetside Spots could be installed from April 1 to October 31, 2016. It is recommended that future Streetside Spots, now regulated as a location for patios and parklets, be permitted only in the summer patio season as described above.

RURAL IMPLICATIONS

There are no rural implications associated with this report.

CONSULTATION

In May 2016, a three week stakeholder consultation period invited feedback on two discussion papers as part of the development of the ROW Patio By-law. Patio permit holders, Business Improvement Areas, Community Associations, affected City services, and the public were the primary stakeholders in the review. Draft recommendations were crafted from the results, and published for another three week stakeholder consultation period in November 2016. Further meetings were undertaken with the Accessibility Advisory Committee, OCOBIA representatives and patio permit holders following the conclusion of the consultation period. Major themes from the consultation have been identified in this report.

Feedback on the Streetside Spots pilot project was collected from the public via an online questionnaire as well as through on-site visits and conversations with permit holders, Business Improvement Areas, and Councillors' offices. More than 300 surveys were completed during a four week period providing valuable information about the success of the 2016 pilot year. City departments were consulted over the course of the evaluation period, and a series of site visits by City staff members were conducted.

Public response was in the majority supportive of expanding the Streetside Spots program. Positive comments included the aesthetics of some of the Spots, especially the two designed by Carleton University's architecture students. The majority of the public felt that Streetside Spots contribute to a sense of neighbourhood character and identity, with over 80 per cent of survey respondents stating that they would prefer Streetside Spots as opposed to on street parking. Community representatives stated that there should be more events planned around the parklets.

On the negative side, observations were made concerning noise, smell, and concern and traffic obstruction. For several Spots, more shade and improved barriers from cars were needed. For parklets, it was observed that better signage is required so that people are aware that they are public space.

Through the Duty to Consult, staff gave a presentation on the draft ROW By-law in its current state at the time to the Accessibility Advisory Committee on November 15th, 2016. Comments were supportive of adherence to the City of Ottawa Accessibility Design Standards and OADA with particular reference to maintaining a pedestrian

clearway with no obstructions, including bicycle parking and signs (sandwich boards). Delineation of Café Seating was also a concern where there is no fence or markers for the seating area. Feedback from the AAC was considered in arriving at the final recommendations of this report.

COMMENTS BY THE WARD COUNCILLORS

This is a City-wide report – not applicable.

LEGAL IMPLICATIONS (Revised as per Motion TRC 01/22, 1 March 2017)

There are no legal impediments to approving the recommendations of this report. The following information is provided for reference.

The proposed ROW Patio By-law (Document 1) creates a permit regime and regulations for ROW patios that are situated, and therefore encroach on, City highways, and the ROW patios regulated by the by-law include front, curbside and streetside private patios, café seating, and front, curbside and streetside parklets. Such a by-law is authorized by the *Municipal Act, 2001*, which specifically provides in Subsections 10(2) 5, 6 and 8 that a municipality may pass by-laws for the economic, social and environmental well-being of the municipality, the health, safety and well-being of persons and the protection of persons and property, and structures.

It is noted that Recommendation 3 of the report proposes that existing/renewing ROW patios be temporarily exempted, until April 1, 2018, from the City of Ottawa's internal Accessibility Design Standards, including the recommended clear width for pedestrian clearways (or sidewalks) of 1.8m and a best practice of ensuring a 2.0m pedestrian clearway for high traffic areas. Operational staff recommend that for the 2017 patio season, the location and footprint of existing/renewing patios be based on the specifications that were approved in previously-issued permits. The location of a patio affects the width of the adjacent sidewalk, and the staff report notes that the designation of pedestrian clearways (sidewalks) will be ongoing throughout 2017. Staff has advised that new ROW patios will be required to comply with the pedestrian clearway designated by the City, and that work is ongoing throughout 2017 to designate pedestrian clearways for street segments.

As referenced in the report, the Integrated Accessibility Standards Regulation (the “IASR”), being Ontario Regulation 191/11, passed under the Provincial *Accessibility for Ontarians With Disabilities Act, 2005* (“AODA”) contains the Design of Public Spaces Standard (previously known as the “Built Environment” Standard). This Standard, in effect for the City since January 1, 2016, prescribes certain standards for “new” or “redeveloped” exterior paths of travel such as sidewalks, as well as other features relating to ROW patios such as ramps. In particular, the IASR prescribes a minimum clear width of 1.5m for new or redeveloped sidewalks. It is noted that these prescribed sidewalk-related accessibility standards apply to the “obligated organization”, which in this case is the City given that the sidewalks in question are on municipal highways. The IASR defines “redeveloped” as “planned, significant alterations to public spaces, but does not include maintenance activities...” As a result, the determination of whether the IASR Standard applies to an existing sidewalk that is adjacent to an existing/renewed ROW patio will need to be determined on a case-by-case basis.

Staff have advised that for the 2017 season, a number of existing/renewing ROW patios will have a pedestrian clearway with less than 1.5 m clearance, and others will be below the City’s own internal Accessibility Design Standards, which as noted above require a minimum design standard of 1.8m of clear width, and recommend as a best practice a clear width of 2.0m for high traffic areas.

The City is required to submit an accessibility report in 2017 to the provincial Accessibility Directorate to confirm that it has met its current accessibility requirements under the AODA. While the accessibility reporting questionnaire will not be finalized and submitted until December 31, 2017, it is anticipated that there will be compliance questions related to the Design of Public Spaces Standard. Should the City report non-compliance in the accessibility report, it will have to provide an explanation for the non-compliance and the Accessibility Directorate will likely want to see a plan to achieve compliance.

Non-compliance with the AODA is subject to review by the provincial director designated under the legislation, and enforcement actions may include inspections and the issuance of orders to produce accessibility reports or to rectify the non-compliance. Such orders are appealable to the designated provincial tribunal. Non-compliance with an order may incur the imposition of administrative penalties or charges. Neither

Committee nor Council have the authority to provide an exemption from AODA requirements for exterior paths of travel and patios, given that the AODA is provincial law. Staff has noted the built-in exemption provisions in the IASR found in Paragraph 6 of Section 80.31 of the IASR Regulation. These exemptions are applicable when the obligated organization can demonstrate that it is not practicable to comply with the requirements because existing physical or site constraints prohibit any modification of the site or any addition of elements. Examples cited in this particular IASR exemption include where increasing the width of the exterior path would narrow the width of the adjacent highway, or where locating a required pedestrian signal pole as required by the Standard is not feasible because of existing underground utilities. Although there are no available cases regarding patios on sidewalks or highways in relation to Paragraph 6, it appears that the intent of the regulation was to limit the applicability of the exemption, and that compliance with the IASR standards for exterior paths of travel is required in all but the most exceptional of circumstances where the physical constraints of the site truly prevent compliance. As a result, when staff report back in early 2018 on compliance issues relating to existing patios, it is expected that the application of such exemptions in the IASR would need to be determined on a case-by-case basis such that compliance with the IASR should be achieved where-ever possible.

Staff has also noted that some existing/renewing patios do not currently meet the City's own Accessibility Design Standards in respect of platforms and ramps. Staff advised that a Design Review Team will review issues of accessibility and of non-compliance throughout the 2017 season in an effort to rectify matters where possible for the 2018 season, and to report back to advise Committee and Council in early 2018 including advising of cases where compliance has not been achieved.

RISK MANAGEMENT IMPLICATIONS

There are no risk management implications associated with the recommendations in this report.

FINANCIAL IMPLICATIONS

The revenue impact of the proposed fee structure will be the subject of monitoring in 2017. It is anticipated that the reduction in summer patio fees will incentivize growth in

the number of patio permits issued and in conjunction with the new winter season rate, budgetary revenue targets will be achieved.

Cost incurred to remove patios (unauthorized, non-compliant, or for other reasons) will be recovered from the property owner through the tax roll.

ACCESSIBILITY IMPACTS

The new ROW Patio By-law requires adherence to the 2015 City of Ottawa Accessibility Design Standards and in some cases will exceed the standards, for example the requirement for a 2.0m pedestrian clearway. All permit holders with patio platforms will be required to have fully-accessible platforms in the right of way beginning in 2018.

For 2017 it is recognized that the grandparenting of existing patio permits may cause accessibility impacts for pedestrians on the adjoining sidewalks and for patrons accessing the patios. Staff will work in good faith with existing patio permit owners to look at various options such as temporary ramps to reduce such instances through the transition period. Beginning in 2018 all patio permits will be in compliance with AODA and City Accessibility Design Standards unless exempted by Council.

TERM OF COUNCIL PRIORITIES

The Encroachment By-law 2003-446 was identified for a comprehensive review in the 2015 By-law Review Strategy, an initiative of the 2014-2018 Governance Review report.

This report supports the Term of Council priorities:

- Economic Prosperity: EP2 – Support growth of local economy
- Healthy and Caring Communities: HC1 – Advance equity and inclusion for the city's diverse population

Service Excellence: SE1 – Improve the client experience through established service expectations

SUPPORTING DOCUMENTATION

Document 1 Proposed ROW Patio By-law

Document 2 Fee Structure

Document 3 Patio Design Options

DISPOSITION

The Office of the City Clerk and Solicitor shall prepare the implementing by-law and forward it to Council for enactment.

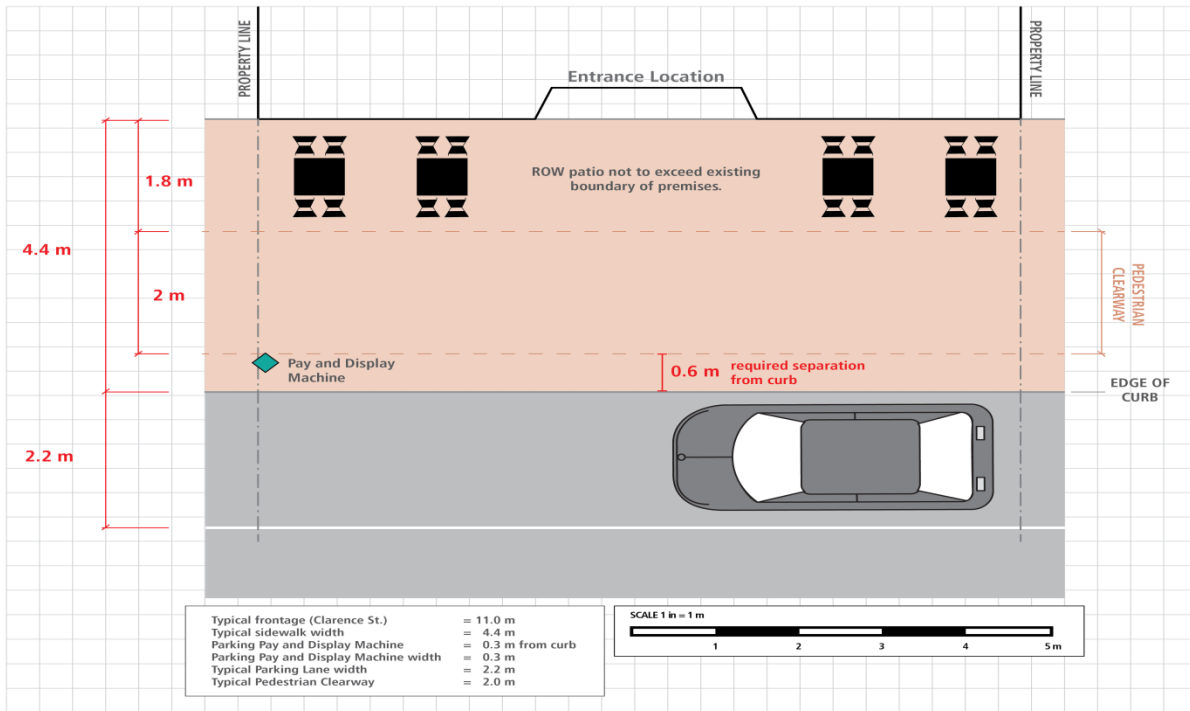
Staff in the Right of Way, Heritage and Urban Design Service Area will implement the by-law with each new patio permit applicant and work with existing patio permit holders on the transition to the new by-law for the 2018 summer season. In February 2018, staff will bring forward a report to Transportation Committee that provides a progress update on compliance of existing patio permit holders with the new by-law.

Document 2 – Fee Structure

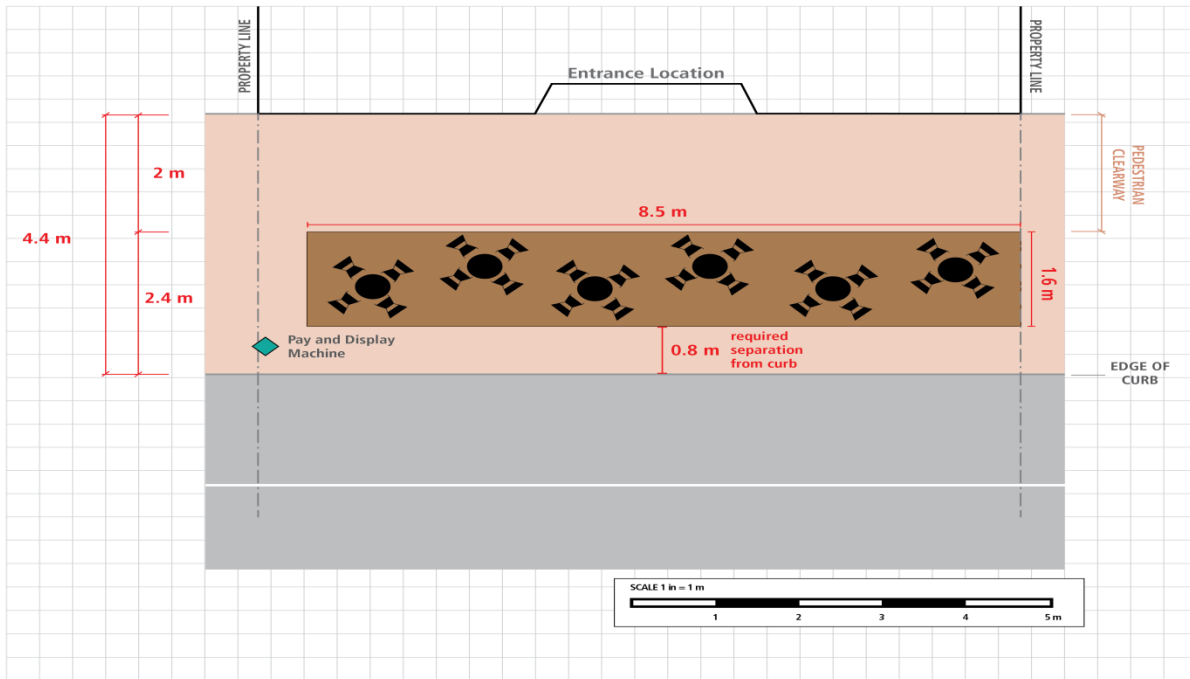
	2015 Rate \$	2016 Rate \$	2017 Rate \$	2017 Proposed Rate \$	% Change Over 2016	% Change Over 2015	Effective Date
Outdoor Patio							
First time review fee	305.00	311.00	317.20	317.20	2.0%	4.0%	01-Jan-17
Public Circulation	510.00	520.20	530.00	530.00	1.9%	3.9%	01-Jan-17
Permit processing fee	56.00	57.12	58.00	58.00	1.5%	3.6%	01-Jan-17
Daily Rental - per m ² /day	1.18	1.18	1.18	NA	0.0%	0.0%	01-Jan-17
Summer Rental - per m ² /month				27.76	(-22%)		01-Apr-17
Winter Rental - per m ² /month				8.94	New rate		01-Apr-17
Café Seating							
Permit processing fee	55.00	57.00	58.00	58.00	1.8%	5.5%	01-Jan-17
Per annum fee	156.00	159.00	162.20	162.00	2.0%	4.0%	01-Jan-17
Streetside Spot:				No longer applicable as separate category			
Vending and Patios							
First time review fee		311.00	317.20		2.0%	n/a	01-Jan-17
Permit processing fee		57.12	58.00		1.5%	n/a	01-Jan-17
Daily Rental -per sqm/day		1.20	1.20	0.0%	n/a	01-Jan-17	
Parklets:							
Permit processing fee		57.00	58.00	58.00	1.8%	n/a	01-Jan-17
Per annum fee		159.00	162.00	162.00	1.9%	n/a	01-Jan-17

Document 3 – Patio Design Options

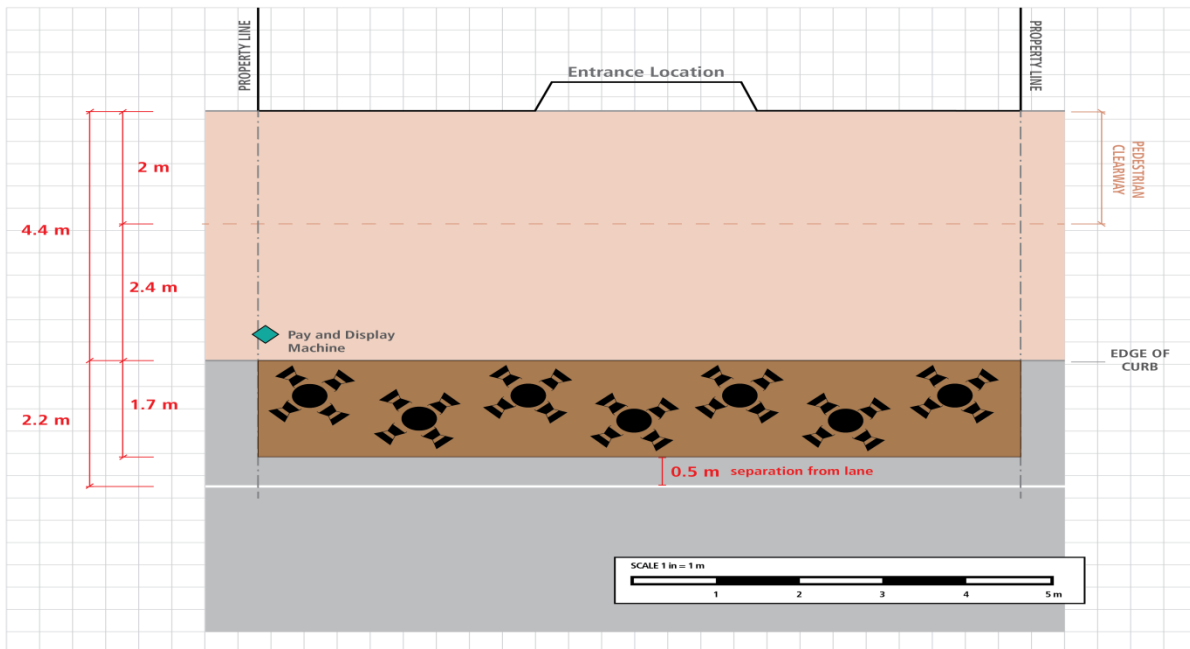
Front Patio



Curbside Patio



Streetside Patio (Summer Only)



Combined Curbside and Streetside Patio (Summer Only)

