

**9. RIGHT OF WAY PATIO BY-LAW – INSURANCE REQUIREMENTS FOR CAFÉ SEATING PATIOS - MOTION**

**RÈGLEMENT SUR LES TERRASSES SUR EMPRISE – EXIGENCES EN MATIÈRE D'ASSURANCE POUR LES PETITES TERRASSES DE CAFÉ - MOTION**

**COMMITTEE RECOMMENDATION**

That City Council establish new, lower insurance requirements for café seating patios by adding *the following* to By-law 2017-92, Section 13 (a):

**INSURANCE**

13. The permit holder applicant shall provide and maintain insurance in accordance with the following requirements in respect of each ROW patio permit issued to the permit holder under this by-law:
- (a) Commercial General Liability insurance subject to limits of not less than \$5,000,000, *or not less than \$2,000,000 inclusive per occurrence for café seating patios only*, inclusive per occurrence for bodily injury, death and damage to property including loss of use thereof, and such insurance shall be in the name of the applicant and shall name the City as an additional insured thereunder and which shall preclude subrogation claims by the Insurer against anyone insured thereunder;

### RECOMMANDATION DU COMITÉ

Que le Conseil municipal fixe un montant inférieur pour l'assurance que doivent souscrire les petites terrasses de café en ajoutant *ceci* à l'alinéa 13 a) du Règlement n° 2017-92 :

#### **ASSURANCE**

13. Le demandeur de permis doit souscrire à une assurance répondant aux exigences suivantes; pour chaque permis de terrasse sur emprise délivré au titulaire en vertu du présent règlement :
  - a) Une assurance de responsabilité civile – formule générale dont la limite de garantie n'est pas inférieure à 5 000 000 \$, *ou* à 2 000 000 \$ *pour les petites terrasses de café*, inclusivement par incident pour blessures, décès et dommages matériels, y compris la perte de jouissance; la police d'assurance doit être au nom du requérant et nommer la Ville d'Ottawa en tant qu'autre assuré, et empêcher toute demande d'indemnité en subrogation que l'assureur pourrait faire valoir contre toute personne assurée;

### DOCUMENTATION / DOCUMENTATION

1. Committee Coordinator's report dated 7 June 2017  
(ACS2017-CCS-TRC-0012)  
  
Rapport du Coordonnatrice du comité, daté le 7 juin 2017  
(ACS2017-CCS-TRC-0012)

Report to  
Rapport au:

Transportation Committee  
Comité des transports  
7 June 2017 / 7 juin 2017

and Council  
et au Conseil  
14 June 2017 / 14 juin 2017

Submitted on June 7, 2017  
Soumis le 7 juin 2017

Submitted by  
Soumis par:  
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Ward: CITY WIDE / À L'ÉCHELLE DE LA VILLE File Number: ACS2017-CCS-TRC-0012

**SUBJECT: Right of Way Patio By-law – Insurance requirements for Café Seating Patios - Motion**

**OBJET: Règlement sur les terrasses sur emprise – Exigences en matière d'assurance pour les petites terrasses de café - Motion**

#### **REPORT RECOMMENDATION**

That the Transportation Committee recommend that City Council establish new, lower insurance requirements for café seating patios by adding the following to By-law 2017-92, Section 13 (a):

## INSURANCE

13. The permit holder applicant shall provide and maintain insurance in accordance with the following requirements in respect of each ROW patio permit issued to the permit holder under this by-law:
- (a) Commercial General Liability insurance subject to limits of not less than \$5,000,000, or not less than \$2,000,000 inclusive per occurrence for café seating patios only, inclusive per occurrence for bodily injury, death and damage to property including loss of use thereof, and such insurance shall be in the name of the applicant and shall name the City as an additional insured thereunder and which shall preclude subrogation claims by the Insurer against anyone insured thereunder;

## RECOMMANDATION DU RAPPORT

Que le Comité des transports recommande au Conseil municipal de fixer un montant inférieur pour l'assurance que doivent souscrire les petites terrasses de café en ajoutant ceci à l'alinéa 13 a) du Règlement n° 2017-92 :

## ASSURANCE

13. Le demandeur de permis doit souscrire à une assurance répondant aux exigences suivantes; pour chaque permis de terrasse sur emprise délivré au titulaire en vertu du présent règlement :
- a) Une assurance de responsabilité civile – formule générale dont la limite de garantie n'est pas inférieure à 5 000 000 \$, ou à 2 000 000 \$ pour les petites terrasses de café, inclusivement par incident pour blessures, décès et dommages matériels, y compris la perte de jouissance; la police d'assurance doit être au nom du requérant et nommer la Ville d'Ottawa en tant qu'autre assuré, et empêcher toute demande d'indemnité en subrogation que l'assureur pourrait faire valoir contre toute personne assurée;

## BACKGROUND

The Transportation Committee at its meeting of 7 June 2017, approved the following

motion, which was added to the agenda pursuant to subsection 89(3) of the Procedure By-law (By-law 2016-377):

*WHEREAS Council's approval of the Right of Way Patio By-law on March 8, 2017 (now enacted as By-law 2017-92) included a requirement (Section 13 a) that a permit holder applicant provide and maintain Commercial General Liability insurance subject to limits of not less than \$5 million; and*

*WHEREAS, in general, this \$5 million insurance requirement is deemed appropriate for patios considered higher risk due to factors including but not limited to a high number of tables, service of full meals and/or alcohol, and proximity to roads with heavy traffic; and*

*WHEREAS café seating patios are generally considered lower risk and subject to specific conditions per Sections 41 through 43 of the By-law;*

*WHEREAS this insurance requirement is excessive for café seating patios and, therefore, a disincentive for applicants seeking permits for same;*

*THEREFORE BE IT FURTHER RESOLVED that the Transportation Committee recommend that City Council establish new, lower insurance requirements for café seating patios by adding the following to By-law 2017-92, Section 13 (a):*

#### *INSURANCE*

13. *The permit holder applicant shall provide and maintain insurance in accordance with the following requirements in respect of each ROW patio permit issued to the permit holder under this by-law:*
  - (a) *Commercial General Liability insurance subject to limits of not less than \$5,000,000, or not less than \$2,000,000 inclusive per occurrence for café seating patios only, inclusive per occurrence for bodily injury, death and damage to property including loss of use thereof, and such insurance shall be in the name of the applicant and shall name the City as an additional insured thereunder and which shall preclude subrogation claims by the Insurer against anyone insured thereunder;*

#### **DISCUSSION**

The Committee unanimously supported the aforementioned motion and agreed that it would be presented to Council on 14 June 2017.

**RURAL IMPLICATIONS**

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

**CONSULTATION**

No consultation was undertaken as this item was added at the meeting.

**COMMENTS BY THE WARD COUNCILLOR(S)**

This is a City-Wide report.

**ADVISORY COMMITTEE(S) COMMENTS**

This report was not circulated for comment as it was added at the meeting.

**LEGAL IMPLICATIONS**

There are no legal impediments to implementing the recommendation in this report.

**RISK MANAGEMENT IMPLICATIONS**

There are no risk management implications associated with this report.

**FINANCIAL IMPLICATIONS**

There are no financial implications associated with implementing the recommendations of this report.

**ACCESSIBILITY IMPACTS**

There are no impacts to accessibility associated with this report.

**TERM OF COUNCIL PRIORITIES**

This is not applicable to the recommendation in this report.

**DISPOSITION**

Following Council approval, ROW, Heritage, & Urban Design Services staff will coordinate with the City Clerk and Solicitor's office to enact the amendment to the Right-of-Way Patio By-law 2016-377 at the following City Council meeting.