

3. Extending operating hours for patios within the newly constructed Elgin Street corridor

Recommandation visant à prolonger les heures d'ouverture des terrasses dans le couloir de la rue Elgin, récemment réaménagée

Committee Recommendations

That Council:

- 1. Waive the 11 p.m. closing provision, being subsections 7(3) and (4), Patio By-law 2017-92, and require patios fronting on Elgin Street between Laurier Avenue West and McLeod Street to close each night by 2 a.m.**
- 2. Amend the Right of Way Patio By-law No. 2017-92, as described in this report and detailed in Document 1**

Recommandations du comité

Que le Conseil :

- 1. suspende les paragraphes 7(3) et 7(4) du *Règlement régissant les terrasses sur emprise* (n° 2017-92), qui exigent la fermeture des terrasses sur emprise à 22 h, et de permettre que les terrasses donnant sur la rue Elgin entre l'avenue Laurier Ouest et la rue McLeod ferment toutes les nuits à 2 h du matin;**
- 2. modifie ledit règlement comme l'indiquent le présent rapport et le document 1.**

DOCUMENTATION / DOCUMENTATION

- 1. Manager's report, Right of Way, Heritage and Urban Design Services, Planning, Infrastructure and Economic Development Department, dated 25 November 2019 (ACS2019-PIE-RHU-0026)**

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 25 novembre 2019 (ACS2019-PIE-RHU-0026)

**Report to
Rapport au:**

**Transportation Committee
Comité des transports
4 December 2019 / 4 décembre 2019**

**and Council
et au Conseil
11 December 2019 / 11 décembre 2019**

**Submitted on November 25, 2019
Soumis le 25 novembre 2019**

**Submitted by
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Ward: SOMERSET (14)

File Number: ACS2019-PIE-RHU-0026

**SUBJECT: Extending operating hours for patios within the newly constructed
Elgin Street corridor**

**OBJET: Recommandation visant à prolonger les heures d'ouverture des
terrasses dans le couloir de la rue Elgin, récemment réaménagée**

REPORT RECOMMENDATIONS

That Transportation Committee recommend Council:

1. Waive the 11 p.m. closing provision, being subsections 7(3) and (4), Patio By-law 2017-92, and require patios fronting on Elgin Street between Laurier Avenue West and McLeod Street to close each night by 2 a.m.
2. Amend the Right of Way Patio By-law No. 2017-92, as described in this report and detailed in Document 1.

RECOMMANDATIONS DU RAPPORT

Que le Comité des transports recommande au Conseil :

1. de suspendre les paragraphes 7(3) et 7(4) du *Règlement régissant les terrasses sur emprise* (n° 2017-92), qui exigent la fermeture des terrasses sur emprise à 22 h, et de permettre que les terrasses donnant sur la rue Elgin entre l'avenue Laurier Ouest et la rue McLeod ferment toutes les nuits à 2 h du matin;
2. de modifier ledit règlement comme l'indiquent le présent rapport et le document 1.

BACKGROUND

Patios play an important part 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 to be more pedestrian friendly patios continue to be popular with residents and businesses. In 2018, 93 patio applications (nine of these on Elgin Street) were received for patios placed on City sidewalks, known as Right-Of-Way (ROW) patios. This is an increase in the number of patios from 68 patios in 2005.

In 2013 ([ACS2013-PAO-PGM-0125](#)) a pilot project was initiated along the west side of Elgin Street to allow outdoor patios to be installed on the sidewalk. The results of the pilot were brought back to Committee in 2015 ([ACS2015-PAI-PGM-0077](#)). The patios would abut residential zones, and in keeping with the by-law provisions, included comments from neighbouring properties obtained through a circulation process. Concerns identified at that time were insufficient sidewalk widths, safety hazards and

accessibility concerns particularly at a bus stop. Patios on the west side continued to operate based on the pilot until the reconstruction of Elgin Street.

In April 2015, Transportation Committee directed staff to remove patio regulation from Encroachment By-law 2003-446 and create a stand-alone ROW Patio By-law 2017-92. Council enacted this By-law at the meeting of March 8, 2017 ([ACS2017-PIE-RHU-0002](#)). The by-law states that all new patios within 30 metres of any property zoned as residential or mixed residential/commercial shall include a provision that new ROW patios are required to close each night by 11 p.m.

Existing patios on Elgin Street have enjoyed extended patio hours (staying open past 11 p.m.) due to grandfathered status of the establishment stemming from conditions imposed on the patios prior to By-law 2017-92.

Additionally, the Zoning By-law (2008-250 – Section 85) allows for commercial patios on private property as part of a restaurant, bar, place of assembly, storefront industry or nightclub. These patios can stay open until 2 a.m.

In 2016, a pilot program called “Streetside Spots” was launched. Council received this report on September 9, 2015 ([ACS2015-PAI-PGM-0151](#)). This program used on-street parking spaces to create new patio space or “parklets” for public or commercial use during fair weather seasons. Evaluation of this program was conducted through an online survey and was received by Council on May 10, 2017 (ACS2017-PIE-RHU-0002).

The integrated renewal of Elgin Street ([ACS2017-TSD-PLN-0007](#)) report was approved by City Council in May 2017. Part of this ongoing project includes construction of flexible space to accommodate on-street parking, patios or other seasonal uses. In the Elgin Street report recommendations, Transportation Committee recommended that the 90 flexible parking spaces be designed for the purpose of parking or patio use only. Accordingly, an opportunity has been created for new or expanded patios for area businesses that have flexible spaces in their business’ frontage. Under the current Patio By-law, any new patio opening in the flexible space would be subject to the 11 p.m. closing provision due to the proximity to property zoned as residential or mixed residential / commercial.

DISCUSSION

New and existing patio space with extended hours will provide interesting elements through streetscaping, animation and character to the Elgin Street streetscape and will enhance the vibrancy of the nightlife on the street. Pursuing this recommendation will level the playing field between new and existing patios within the corridor and augment Elgin Street's perception as a destination/place – per the Ottawa Urban Design Review Panel recommendations of January 12, 2017.

Elgin Street is uniquely positioned to benefit from several events in the upcoming months and attract residents from across the City and tourists. Winterlude activities will be near Elgin Street and provides an opportunity for restaurant operators to host year-round patio space. Additionally, Elgin Street has been recognized as the “Sens Mile” where residents can support the local National Hockey League franchise, the Ottawa Senators. Increased operating hours and patio space would greatly help draw people to the street.

Businesses in the area with patios fronting on Elgin Street have expressed their frustration with having to comply with the 11 p.m. closing while other patios fronting on Elgin Street can stay open later due to their grandfathered status or by operating a patio on private property. Moving forward with the report recommendation shall ensure an equitable playing field for Elgin Street area businesses.

It is expected that demand for new seasonal patios within the flexible spaces constructed on Elgin Street will be high. It is anticipated that new patio opportunities will be available, with additional opportunities for existing permit holders to expand their patios. More opportunities may be available once the rehabilitation is complete.

In order to further animate the street, provide economic benefit to restaurant operators and enhance Elgin Street's image as an entertainment district in the City, it is recommended to extend patio operating hours until 2 a.m. for all patios fronting on Elgin Street. For local businesses fronting on Elgin Street, this represents an opportunity to increase revenue through new or expanded patio space and will assist in the recovery after the impacts of the ongoing construction.

In terms of operation, applicants will be responsible for the maintenance of these spaces and shall be subject to the existing Noise By-law 2017-255 and Patio By-law

2017-92. Enforcement provisions exist in the Noise By-Law and Patio By-law to allow staff to impose conditions on the patio permit for addressing issues of non compliance and/or noise at a specific patio location.

This amendment will only be for patios that directly have frontage or are located in the new flex spaces on Elgin Street. Currently, there were nine patio permits issued in 2018 on this section of Elgin Street (before the start of construction) and it is anticipated that there will be up to 20 new opportunities or opportunities for existing permit holders to expand their patio space once the rehabilitation project is complete. Patios on side streets are not included in this exemption and shall continue to be subject to the requirements of the by-law.

As such, the Patio By-law must be amended to allow patios fronting on Elgin Street between Laurier Avenue West and McLeod Street to remain open until the closing of the establishment. Businesses on Elgin Street shall be advised of this decision via normal channels, at in-person consultations, through business associations and through the ROW Patio permit application process.

RURAL IMPLICATIONS

There are no rural implications associated with this report.

CONSULTATION

Consultation with local businesses on Elgin Street was undertaken as part of the Elgin Street rehabilitation.

COMMENTS BY THE WARD COUNCILLOR

The Councillor is aware of the report and supports the recommendations that support equitable closing provisions along Elgin Street.

LEGAL IMPLICATIONS

There are no legal impediments to implementing the recommendations as outlined in this report.

RISK MANAGEMENT IMPLICATIONS

There is a risk of increased noise on Elgin Street as a result of this change after 11 p.m. However, as mentioned above, all patios shall still be subject to the existing Noise By-law (2017-255) and the Patio By-Law 2017-92. Businesses that receive complaints shall be subject to the enforcement provisions within these two by-laws and may have conditions imposed on their patio permits (ex: patio must close by 11 p.m.) and/or have their patio permit rescinded.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications associated with the recommendations of this report.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this report.

ACCESSIBILITY IMPACTS

The ROW Patio By-Law states that all patios are conditional upon the General Manager's approval of its dimensions and proposed location within the highway and such an approval shall be subject to the following considerations:

- Applicants must ensure a minimum pedestrian clearway of 2m at all times
- Compliance with the requirements of the City of Ottawa's Accessibility Design Standards

As part of the permit application process, restaurant operators must demonstrate that their patios are accessible. Accessibility is verified by City staff at the application stage. Furniture is exempt from this requirement. Additionally, when new or expanded patios are considered, every effort is made to maintain a straight pedestrian clearway (footpath).

ENVIRONMENTAL IMPLICATIONS

By further promoting patios and using the future flex space on Elgin Street for pedestrian and patios rather than parking, there will be a correlated benefit in air quality

by reducing vehicle traffic on the street and promotion of healthy transportation modes (walking, cycling).

TERM OF COUNCIL PRIORITIES

This report supports the following draft 2019-2022 term of Council priorities:

- **Economic Growth and Diversification:**
 - Growth in business investment, small and medium enterprises and entrepreneurship
 - Tourism, sporting and cultural events are major drivers of economic activity
 - Support public realm projects to enhance public life and social interactions
- **Thriving Communities**
 - Communities have access to affordable recreation facilities and programs and attractive signature public spaces

SUPPORTING DOCUMENTATION

Document 1 Proposed amendments to Right of Way Patio By-law (2017-92)

DISPOSITION

Following Council approval of this report, staff within the Right-of-Way Branch shall amend the ROW Patio By-law (2017-92). Businesses on Elgin Street shall be advised of this decision via normal channels, at in-person consultations, through business associations and through the ROW Patio permit application process.

Document 1 – Details of recommended amendments to the ROW Patio By-law

Amend the ROW Patio By-law in accordance with the following:

1. Add a new Subsection 7(5) containing the following:

“Subsections (3) and (4) shall not apply to a ROW patio on Elgin Street between Laurier Avenue West and McLeod Street. Patios in this area of Elgin Street shall be required to close by 2 a.m.”