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TO:	CHAIR AND MEMBERS PLANNING AND ENVIRONMENT COMMITTEE TUESDAY MARCH 25, 2014
FROM:	GEORGE KOTSIFAS, P. ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES & CHIEF BUILDING OFFICIAL
SUBJECT:	ENTERTAINMENT ON OUTDOOR PATIOS

RECOMMENDATION

That, on the recommendation of the Managing Director, Development & Compliance & Chief Building Official, Civic Administration **BE DIRECTED** to report back to a public participation meeting of the Planning and Environment Committee on Tuesday May 13, 2014 on proposed amendments to the Zoning By-law to implement a pilot program permitting acoustic music on outdoor patios associated with restaurant or tavern, during reasonable hours, in the City of London for the Committee's consideration.

BACKGROUND

Civic Administration was directed to report back on possible amendments to the Zoning By-law to permit some acoustic music on outdoor patios. This request relates to a resolution of Municipal Council on August 27, 2013:

That the Civic Administration **BE DIRECTED** to report back to the appropriate Standing Committee, with respect to potential by-law amendments that would permit acoustic music on patios, during reasonable hours, in the City of London for the Committee's consideration.

ANALYSIS

The current Zoning By-law regulations for entertainment on outdoor patio associated with restaurants and taverns is contained in section 4.18 (5) of the Zoning By-law as follows:

4.18 (5) ENTERTAINMENT

No music (whether performed live or recorded), dancing or other forms of entertainment shall be permitted.

The Zoning By-law regulations relating to outdoor patios have been in effect since 1993 in the City. The effect of these regulations is to prohibit entertainment (live or recorded) on outdoor patios. In part, these regulations are intended to implement the general intent of the Official Plan in achieving compatibility amongst adjacent land uses by eliminating or reducing conflict arising from noise. The outdoor patio policies have been effective in this regard, as well as its locational, capacity, lighting and parking regulations.

Many Municipalities within the Province have similar Zoning regulations relating to outdoor patios and a general prohibition for live or recorded entertainment on these patios. A recent staff survey of various Municipalities highlights a comparison of regulations in Zoning By-laws for Patio Entertainment (APPENDIX I).

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Municipal Council has directed staff to report back with potential by-law amendments that would permit acoustic music on patios, during reasonable hours, in the City of London. Civic Administration is recommending that Municipal Council direct staff to report back to a future public participation meeting of this committee on May 13, 2014 to consider amendments to the Zoning By-law implementing a pilot program for the 2014 outdoor patio season to permit acoustic music on outdoor patio within reasonable hours. Such direction provides administration with appropriate timeframes to publically advertise a public participation meeting for the full consideration of proposed amendments to the Zoning By-law.

It is important to note that current provisions and full enforcement of the Noise By-law shall continue to apply throughout any proposed pilot program. No exemptions or exceptions are being considered to the City's current Noise By-law through this initiative. Amplified sound or noise and entertainment that exceed the limits of the Noise By-law which is clearly audible at a point of reception in a residential area shall continue to be prohibited. The intention of this pilot program is to examine the impacts of introducing some limited forms of non-amplified entertainment on patios, within reasonable hours while maintaining protection in terms of unreasonable noise or noise likely to disturb inhabitants/occupants in nearby properties.

Many municipalities, including the City of London, have implemented pilot programs to introduce amendments to a By-law and assess impacts, and refine regulations in response to customer service and community issues that may arise while the pilot program is in place. Given the experience of municipalities that have implemented pilot projects of various By-law matters, staff could prepare an amendment to the Zoning By-law to incorporate regulations that would allow limited forms of entertainment on outdoor patios with restrictions on hours. The pilot program would be applied city-wide and could include the following regulations:

- Acoustic music only
- Non-amplified entertainment permitted
- Television screens (no audio) permitted
- Pilot project with year-end review
- City-wide application
- Noise By-law provisions and enforcement shall remain in effect during pilot program

CONCLUSION

The Zoning By-law regulations relating to outdoor patios have been in effect since 1993 in the City. The effect of these regulations is to prohibit entertainment (live or recorded) on outdoor patios. Municipal Council has directed staff to report back with potential by-law amendments that would permit acoustic music on patios, during reasonable hours, in the City of London.

Civic Administration is proposing that a future public participation meeting be held on May 13, 2014 to provide consideration for amendments to the Zoning By-law to implement a pilot program for the 2014 outdoor patio season to permit acoustic music on outdoor patio within reasonable hours in the City. The current provisions and full enforcement of the Noise By-law shall continue to apply throughout any proposed pilot program. No exemptions or exceptions are being considered to the City's current Noise By-law through this initiative. Amplified sound or noise and entertainment that exceed the limits of the Noise By-law that is clearly audible at a point of reception in a residential area shall continue to be prohibited.

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PREPARED BY:	RECOMMENDED BY:
LOU POMPILII, MPA, RPP MANAGER ZONING AND PUBLIC PROPERTY COMPLIANCE	GEORGE KOTSIFAS, P. ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES AND CHIEF BUILDING OFFICIAL
REVIEWED & CONCURRED BY:	REVIEWED & CONCURRED BY:
OREST KATOLYK, MLEO (C), RPP CHIEF MUNICIPAL LAW ENFORCEMENT OFFICER	PETER KOKKOROS, P.ENG DEPUTY CHIEF BUILDING OFFICIAL

March 13, 2014
lp/Attach.

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**APPENDIX I
COMPARISON OF REGULATIONS IN ZONING BY-LAWS FOR PATIO
ENTERTAINMENT/MUSIC**

BRAMPTON	REGULATIONS	Contact	Info:
		enforcement@brampton.ca	
Current Zoning Provision	<ul style="list-style-type: none"> Could not find any provisions or definitions related to patio music. 		
Current Noise Bylaw Provision	<ul style="list-style-type: none"> <i>Bylaw is very vague, makes no reference to specific noise sources of this nature. (Likely to disturb inhabitants standard)</i> 		
Email Response	<ul style="list-style-type: none"> No return email response received 		
BURLINGTON	REGULATIONS	Contact	Info:
		Christiano.Silveira@burlington.ca	
Current Zoning Provision	<ul style="list-style-type: none"> Patio, Outdoor (<i>Definition</i>) An outdoor patio shall be used exclusively for dining and shall not include any recreational or entertainment use or activity. 		
Current Noise Bylaw Provision	<ul style="list-style-type: none"> <i>No specific provisions for patio music made. This type of electronic noise is regulated by the 'clear audibility standard' by time and place or by the technical standards of NPC-205 if operated outside of restricted times and places.</i> 		
Email Response	<ul style="list-style-type: none"> "... the zoning by-law would determine if the use is permitted or not. This would be enforced by way of a notice and part III laying of information to the property owner. The noise and nuisance by-law would be utilized to address the noise complaint right away, probably our first approach when acting on a noise complaint and both who causes and or permits the noise would be responsible, enforcement for this violation could be address by way of a part 1 ticket. " 		
HAMILTON	REGULATIONS	Contact	Info:
		alvin.chan@hamilton.ca	(planner)
Current Zoning Provision	<ul style="list-style-type: none"> Prohibition of Commercial Entertainment and Recreation: That portion of a lot on which the outdoor patio is permitted shall not be used for commercial entertainment or commercial recreation including live or recorded music or dance facilities. 		
Current Noise Bylaw Provision	<ul style="list-style-type: none"> <i>Currently not enforced under this bylaw as the zoning bylaw prohibits it.</i> 		
Email Response	<p>"...The City of Hamilton has passed a by-law to govern Outdoor Commercial Patio's, which I've attached for your reference. You will notice that this by-law repeals and amends the existing 6 former zoning by-laws that comprise the City of Hamilton, as we have yet to roll out a consolidated by-law after amalgamation. Notwithstanding this, you will see within this amending by-law that a prohibition has been incorporated into all former zoning by-laws prohibiting the outdoor commercial patio as being used for commercial entertainment or commercial recreation including live or recorded music, or dance facilities."</p>		
Bylaw 09-210	<ul style="list-style-type: none"> <i>"Prohibition of Commercial Entertainment and Recreation: That portion of a lot on which the Outdoor Commercial Patio is permitted shall not be used for commercial entertainment or commercial recreation including live or recorded music or dance facilities."</i> 		

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MARKHAM	REGULATIONS	Contact Info: tmoore@markham.ca
Current Zoning Provision		
Current Noise Bylaw Provision	<ul style="list-style-type: none"> No specific provisions for patio music made. This type of noise is regulated by the 'clear audibility standard' by time and place or by the technical standards of NPC-205 if operated outside of restricted times and places. 	
Email Response	<ul style="list-style-type: none"> No return email response received 	
MISSISSAUGA	REGULATIONS	Contact Info: ian.masini@mississauga.ca
Current Zoning Provision	<ul style="list-style-type: none"> Could not find any provisions or definitions related to patio music. 	
Current Noise Bylaw Provision	<ul style="list-style-type: none"> Bylaw is very vague, only a qualitative standard applies to noise in general, although specific reference is made to music annoying or disturbing inhabitants in residential settings. 	
Email Response	<ul style="list-style-type: none"> Outdoor patios in the City of Mississauga are only permitted either by Committee of Adjustment approval or site plan approval as part of the development. Regarding Committee of Adjustment approval, the committee may impose conditions in the decision restricting use of the patio including time, lighting and live or recorded music. Further conditions of the Business license may impose conditions of use similar to that of the committee if issues arise regarding the location. The City of Mississauga is also considering an Entertainment License that would regulate all types of entertainment and would regulate location and type of entertainment. Noise Bylaw regulations can also regulate live music that may be an issue however the evidence of noise is associated with the residence in the area. 	
OAKVILLE	REGULATIONS	Contact Info: JoeNethery@oakville.ca (zoning) lferreira@oakville.ca (noise/licencing)
Current Zoning Provision	<ul style="list-style-type: none"> Does not specifically prohibit patio music, although does define it by stating that meals or refreshments are served to the public for consumption. 	
Current Noise Bylaw Provision	<ul style="list-style-type: none"> No specific provisions for patio music made. This type of electronic noise is regulated by the technical standards of the bylaw and only permits noise from an electronic device to have a sound pressure level of 55dBA when measured outside of a commercial establishment or residential receptor during permitted times. Unamplified music is regulated by time and place as well. 	
Email Response	<ul style="list-style-type: none"> Not regulated specifically by the zoning bylaw. This type of thing is regulated through the noise bylaw as stated above. 	

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OTTAWA	REGULATIONS	Contact Info: Public inquiry portal
Current Zoning Provision	<ul style="list-style-type: none"> S.85 Allows for outdoor commercial patios but has distance separations from residential zones of 30m, is screened or blocked by a structure preventing noise and light pollution (unless distance separation is 75m or more) 	
Current Noise Bylaw Provision	<ul style="list-style-type: none"> UNUSUAL NOISE, NOISE LIKELY TO DISTURB “No person shall operate or use or cause to be operated or used any sound reproduction device originating from or in connection with the operation of any commercial establishment between 0700 hours and 2300 hours of the same day the noise from which sound reproduction device when measured in any business, dwelling house, apartment house, hotel or any other type of residence has an equivalent sound level (Leq) greater than 45 dBA” 	
Email Response	<ul style="list-style-type: none"> No return email response received 	
WATERLOO	REGULATIONS	Contact Info: Elizabeth.czekaj@waterloo.ca
Current Zoning Provision	<ul style="list-style-type: none"> Could not find any provisions or definitions related to patio music. 	
Current Noise Bylaw Provision	<ul style="list-style-type: none"> No specific provisions for patio music made. This type of electronic noise is regulated by the ‘clear audibility standard’ by time and place or by the technical standards of NPC-205 if operated outside of restricted times and places. Unamplified music is regulated by time and place as well. 	
Over the phone info	<ul style="list-style-type: none"> Property Standards officer confirms that music from patios is covered by the noise bylaw and potentially the business licencing bylaw. 	