SUBJECT: City Initiative – Amendments for the Regulation of Outdoor Commercial Patios (PED09256) (City Wide)

RECOMMENDATION:

(a) That approval be given to City Initiative CI-09-E for amendments to the City’s Comprehensive Zoning By-law, known as Zoning By-law 05-200, Former City of Hamilton Zoning By-law No. 6593, Former City of Stoney Creek Zoning By-law 3692-92, Former Township of Glanbrook Zoning By-law No. 464, Former Town of Ancaster Zoning By-law No. 87-57, Former Town of Dundas Zoning By-law No. 3581-86, and the Former Town of Flamborough Zoning By-law 90-145-Z with respect to regulations for Outdoor Commercial Patios.

(b) That the draft By-law, included as Appendix ‘A’ to Report PED09256, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

EXECUTIVE SUMMARY:

Further to Report PED09127 which was presented to Committee of the Whole on May 21, 2009, regarding Hess Village, the attached by-law addresses recommendation (b), to amend By-law 05-200 to zoning regulations for Outdoor Commercial Patios.
In addition, the by-law, attached as Appendix ‘A’ to this Report, amends all of the former municipal Zoning By-laws to ensure all regulations regarding Outdoor Commercial Patios are consistent with the recommendation made in Report PED09127.

Specific amendments for Outdoor Commercial Patios recommended as part of this report include the following:

- Seating Capacity Requirements
- Location Requirements
- Prohibited Uses

**BACKGROUND:**

In 2005, Council created new Downtown Zones which implemented the vision and policies of “Putting People First - The New Land Use Plan for Downtown Hamilton”. To implement the new policy new Zones and General Provisions were created, which regulated uses across the entire City, including restaurants with Outdoor Commercial Patios. The Zoning By-law defines Outdoor Commercial Patios as follows:

“Shall mean any outdoor area used in conjunction with any establishment licensed under the Liquor Licence Act, where meals or refreshments are served to the public for consumption on the premises.”

The Zoning By-law only regulates patios accessory to an establishment licensed under the Liquor Licence Act and does not regulate other patios not associated with the serving of alcohol.

Further, Section 4.20 of Zoning By-law 05-200, provides regulations related to Outdoor Commercial Patios, as follows:

"**4.20 OUTDOOR COMMERCIAL PATIOS**

Notwithstanding any provisions of this By-law, every outdoor commercial patio shall comply with the following:

a) Seating Capacity Requirements:

No outdoor patio shall provide for:

i) More than 50% of the seating accommodation permitted under the Liquor Licence Act to the restaurant with which the outdoor commercial patio is associated; or,

ii) Seating accommodation for more than 50 persons

whichever is the greater. (By-law 06-324, October 25, 2006)
b) Location Requirements:

i) Except as provided in Subsection b) (ii) below, no outdoor patio shall be permitted on a lot where any lot line abuts a Residential Zone, Downtown D5 or Downtown D6 Zone or where such lot is separated from a Residential Zone, Downtown D5 or Downtown D6 Zone by a laneway; and,

ii) Where only the rear lot line abuts a Residential Zone, Downtown D5 or Downtown D6 Zone or the lot is separated from the Residential Zone, Downtown D5 or Downtown D6 Zone by a laneway, an outdoor patio shall be permitted in the front yard.

c) 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.”

During the Hess Village Review it was identified that these regulations did not adequately address concerns of design, location or capacity of Outdoor Commercial Patios for the establishments located within Hess Village. It was determined that those patios located within Hess Village should have restrictions in capacity that were a result of the patio area rather than the internal liquor license capacity. This recommendation would allow the City to look at the design and location of patios and the area appropriate for accommodating seated patrons.

In addition, concerns were identified regarding the regulations for Outdoor Commercial Patios throughout the City of Hamilton and all of the former Municipalities. It was determined that issues of capacities exceeding what could be physically accommodated was an issue for all Outdoor Commercial Patios. Therefore, where restrictions existed within the former City of Stoney Creek, former Town of Glanbrook and the former City of Hamilton Zoning By-laws (attached as Appendix ‘B’), the differences were evaluated to determine if the existing restrictions met the objective of ensuring appropriate design, location and capacities for patios.

In the former Town of Ancaster, the former Town of Dundas and the former Town of Flamborough, where no restrictions were established in the Zoning By-laws for Outdoor Commercial Patios, it was determined that the new regulations were also relevant and should also be amended into the by-laws to ensure consistency.

ANALYSIS/RATIONALE:

As part of the Hess Village Review and research undertaken on recent developments, staff recommended that certain revisions to Section 4.20 of Zoning By-law 05-200 be made, to capture the intent of the policies more completely and to provide clarification to the design and capacity requirements for Outdoor Commercial Patios.
ISSUE:

The former Town of Ancaster, former Town of Dundas, former Town of Flamborough and the Township of Glanbrook Zoning By-laws do not define an Outdoor Commercial Patio. The City of Stoney Creek defined a Restaurant – Outdoor Patio, however the definition is for any restaurant with a patio. It is the intent to only regulate the capacities of those establishments licensed under the Liquor Licence Act.

RECOMMENDATION:

The following definition will be amended into all of the former Municipal Zoning By-laws:

“Shall mean any outdoor area used in conjunction with any establishment licensed under the Liquor Licence Act, where meals or refreshments are served to the public for consumption on the premises.”

ISSUE:

The intent of the current regulation for an Outdoor Commercial Patio is to limit patio usage to the accommodation of seated patrons and the regulation should explicitly indicate this.

RECOMMENDATION:

That the regulation indicate that an Outdoor Commercial Patio shall be designed and used to accommodate seating of customers.

ISSUE:

Currently, maximum capacities for Outdoor Commercial Patios are 50% of the interior capacity or 50 persons, which ever is greater. However, the physical area and design of the patio has not been considered as a part of the calculation. In some cases, the current regulation would allow for a higher capacity then a patio could physically accommodate.

RECOMMENDATION:

That the maximum capacity of an Outdoor Commercial Patio be calculated at 1 person per 1.10 square metres of patio area. This requirement will align the requirements for Outdoor Commercial Patios with the calculation of internal seating capacity as established in the Ontario Building Code.

Therefore, the proposed amendments to Zoning By-law 05-200 in addition to all of the former Municipal Zoning By-laws would be as follows:
“a) Design Requirements

Outdoor Commercial Patios shall be designed and used to accommodate seating of customers

b) Seating Capacity Requirements

i) An Outdoor Commercial Patio shall be limited to a seated capacity of a minimum of 1.10 square metres of patio area per person.

ii) Maximum seated capacity shall be inclusive of all outdoor areas and portions of the patio that cross property lines such as road allowances.”

Each of the former Municipal Zoning By-laws regulate Outdoor Commercial Patios differently. Where applicable the above regulations will replace existing regulations for Outdoor Commercial Patios. The Town of Dundas Zoning By-law, Town of Ancaster Zoning By-law and Town of Flamborough Zoning By-law do not have regulations for Outdoor Commercial Patios. An amendment will be done to add the above regulations into the General Provisions section to ensure consistency.

**ALTERNATIVES FOR CONSIDERATION:**

In the event that Council does not approve the proposed amendments to the General Provision Section; Outdoor Commercial Patios will be permitted to develop under the current standards. In the former Town of Ancaster, Town of Dundas and Town of Flamborough Outdoor Commercial Patios will not be regulated.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Financial: N/A.

Staffing: N/A.

Legal: As required by the Planning Act, Council will hold at least one (1) Public Meeting to consider an amendment to the Zoning By-law.

**POLICIES AFFECTING PROPOSAL:**

No policies are affected by this amendment.

**RELEVANT CONSULTATION:**

Hess Village Review Team: Downtown and Community Renewal; Zoning By-law Reform; Parking and By-law Services; Building Services; Public Works; Hamilton Police Services; Fire Prevention Bureau; Legal Services; and, Economic Development and Real Estate.
CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced.  ☑ Yes  ☐ No
Minimizes impacts on surrounding residential uses and creates a limit to the capacity to ensure an establishment is not exceeding its physical limitations.

Environmental Well-Being is enhanced.  ☑ Yes  ☐ No
Human health and safety are protected.

Economic Well-Being is enhanced.  ☑ Yes  ☐ No
Investment in Hamilton is enhanced and supported.

Does the option you are recommending create value across all three bottom lines?  ☑ Yes  ☐ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants?  ☐ Yes  ☑ No

SH:dkm
Attachs. (2)
WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap. 14, Sch. C. did incorporate, as of January 1st, 2001, the municipality “City of Hamilton”;

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former area municipality known as “The Corporation of the Town of Ancaster”, “The Corporation of the Town of Dundas”, “The Corporation of the Town of Flamborough”, “The Corporation of the Township of Glanbrook”, “The Corporation of the City of Hamilton”, and “The Corporation of the City of Stoney Creek”, and is the successor to the former Regional Municipality, namely, The Regional Municipality of Hamilton-Wentworth;

AND WHEREAS the City of Hamilton Act, 1999, provides that the Zoning By-laws of the former area municipalities continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

AND WHEREAS Zoning By-law No. 87-57 (Ancaster) was enacted on the 22nd day of June, 1987, and approved by the Ontario Municipal Board on the 23rd day of January, 1989;

AND WHEREAS Zoning By-law 3581-86 (Dundas) was enacted on the 22nd day of May, 1986, and approved by the Ontario Municipal Board on the 10th day of May, 1988;

AND WHEREAS the Council of the Corporation of the Town of Flamborough passed Zoning By-law No. 90-145-Z (Flamborough) on the 5th day of November, 1990, which by-law was approved by the Ontario Municipal Board by Order dated the 21st day of December, 1992;
AND WHEREAS Zoning By-law No. 464 (Glanbrook) was enacted on the 16th day of March, 1992, and approved by the Ontario Municipal Board on the 31st day of May 1993;

AND WHEREAS Zoning By-law No. 6593 (Hamilton) was enacted on the 25th day of July, 1950;

AND WHEREAS Zoning By-law No. 3692-92 (Stoney Creek) was enacted on the 8th day of December, 1992, and approved by the Ontario Municipal Board on the 31st day of May, 1994;

AND WHEREAS the first stage of the Zoning By-law, being 05-200, came into force on May 25, 2005;

AND WHEREAS this By-law creates a consistent approach to the regulation of Outdoor Commercial Patios within the City of Hamilton;

AND WHEREAS this By-law is in conformity with the Official Plan of the City of Hamilton (the Official Plan of the former Town of Ancaster, the Official Plan of the former Town of Dundas, the Official Plan of the former Town of Flamborough, the Official Plan of the former Township of Glanbrook, the Official Plan of the former City of Hamilton, and the Official Plan of the former City of Stoney Creek).

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

**Town of Ancaster**

1. That SECTION 3: DEFINITIONS of Zoning By-law No.87-57 (former Town of Ancaster), hereby amended by adding the following definition:

   **3.152 “Outdoor Commercial Patio”**

   Shall mean any outdoor area used in conjunction with any establishment licensed under the Liquor Licence Act, where meals or refreshments are served to the public for consumption on the premises."

2 That SECTION 7: GENERAL PROVISIONS of Zoning By-law No. 87-57 (former Town of Ancaster), is hereby amended by adding the following regulation:

   **7.29 Outdoor Commercial Patios**

   Notwithstanding any provisions of this By-law, every Outdoor Commercial Patio shall comply with the following:
a) Design Requirements

Outdoor Commercial Patios shall be designed and used to accommodate seating of customers.

b) Seating Capacity Requirements

i) An Outdoor Commercial Patio shall be limited to a seated capacity of a minimum of 1.10 square metres of patio area per person.

ii) Maximum seated capacity shall be inclusive of all outdoor areas and portions of the patio that cross property lines such as road allowances.

c) Location Requirements:

i) Except as provided in Subsection b) (ii) below, no Outdoor Commercial Patio shall be permitted on a lot where any lot line abuts a Residential Zone or where such lot is separated from a Residential Zone by a laneway; and,

ii) Where only the rear lot line abuts a Residential Zone or the lot is separated from the Residential Zone by a laneway, an Outdoor Commercial Patio shall only be permitted in the front yard.

d) 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."

**Town of Dundas**

3. That SECTION 3: DEFINITIONS of Zoning By-law 3581-86 (former Town of Dundas), is hereby amended by adding the following definition:

```
3.2.103 OUTDOOR COMMERCIAL PATIO

Means any outdoor area used in conjunction with any establishment licensed under the Liquor Licence Act, where meals or refreshments are served to the public for consumption on the premises."
```
4. That SECTION 6: GENERAL REGULATIONS of Zoning By-law No. 3581-86 (former Town of Dundas), is hereby amended by adding the following regulation:

“6.25 OUTDOOR COMMERCIAL PATIOS

Notwithstanding any provisions of this By-law, every Outdoor Commercial Patio shall comply with the following:

a) Design Requirements

Outdoor Commercial Patios shall be designed and used to accommodate seating of customers

b) Seating Capacity Requirements

i) An Outdoor Commercial Patio shall be limited to a seated capacity of a minimum of 1.10 square metres of patio area per person.

ii) Maximum seated capacity shall be inclusive of all outdoor areas and portions of the patio that cross property lines such as road allowances.

c) Location Requirements:

i) Except as provided in Subsection b) (ii) below, no Outdoor Commercial Patio shall be permitted on a lot where any lot line abuts a Residential Zone or where such lot is separated from a Residential Zone by a laneway; and,

ii) Where only the rear lot line abuts a Residential Zone or the lot is separated from the Residential Zone by a laneway, an Outdoor Commercial Patio shall only be permitted in the front yard.

d) 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.”

Town of Flamborough

5. That SECTION 3 – DEFINITIONS, of Zoning By-law 90-145-Z (former Town of Flamborough), is hereby amended by adding the following definition:
“Outdoor Commercial Patio” shall mean any outdoor area used in conjunction with any establishment licensed under the Liquor Licence Act, where meals or refreshments are served to the public for consumption on the premises.

6. That SECTION 5 – GENERAL PROVISIONS, of Zoning By-law 90-145-Z (former Town of Flamborough), is hereby amended by adding the following regulation:

“5.37 OUTDOOR COMMERCIAL PATIOS

Notwithstanding any provisions of this By-law, every Outdoor Commercial Patio shall comply with the following:

a) Design Requirements

Outdoor Commercial Patios shall be designed and used to accommodate seating of customers.

b) Seating Capacity Requirements

i) An Outdoor Commercial Patio shall be limited to a seated capacity of a minimum of 1.10 square metres of patio area per person.

ii) Maximum seated capacity shall be inclusive of all outdoor areas and portions of the patio that cross property lines such as road allowances.

c) Location Requirements:

i) Except as provided in Subsection b) (ii) below, no Outdoor Commercial Patio shall be permitted on a lot where any lot line abuts a Residential Zone or where such lot is separated from a Residential Zone by a laneway; and,

ii) Where only the rear lot line abuts a Residential Zone or the lot is separated from the Residential Zone by a laneway, an outdoor commercial patio shall only be permitted in the front yard.

d) 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."

Township of Glanbrook

7. That SECTION 4: DEFINITIONS of Zoning By-law 464 (former Township of Glanbrook), is amended by adding the following definition:

"OUTDOOR PATIO RESTAURANTS"

Shall mean any outdoor area used in conjunction with any establishment licensed under the Liquor Licence Act, where meals or refreshments are served to the public for consumption on the premises."

8. That SECTION 25: GENERAL COMMERCIAL “C3” ZONE of Zoning By-law 464 (former Township of Glanbrook), is hereby amended as follows:

a) SECTION 25.2 – PERMITTED USES, is hereby amended by deleting the following subsection:

“(o) Accessory Outdoor Patio Restaurants

An outdoor patio is a permitted accessory use to any restaurant subject to the following provisions:

(i) No part of the outdoor patio restaurant shall be used as a place of entertainment for the purpose of providing entertainment or amusement including live or recorded music, dance facilities, theatrical performances, video games, film presentations, video screens, television nor any other similar activities;

(ii) No outdoor patio restaurant shall be located in any yard abutting land zoned Residential in this By-law or where the abutting land is used for residential purposes;

(iii) No outdoor patio restaurant shall be located in any yard abutting a street if a Residential Zone is located on the opposite side of said street, unless the patio restaurant is setback a minimum distance of 30 metres (100 feet) from the residential property line; and

(iv) The seating capacity of the outdoor patio restaurant shall not exceed fifty percent (50%) of the seating capacity of the restaurant with which the patio is associated, and in any event the maximum number of
people that may be accommodated in the outdoor patio shall be 50 persons.”

9. That SECTION 7: GENERAL PROVISIONS FOR ALL ZONES of Zoning By-law 464 (former Township of Glanbrook), is hereby amended by adding the following regulation:

“7.42 Outdoor Patio Restaurants

Notwithstanding any provisions of this By-law, every Outdoor Patio Restaurant shall comply with the following:

a) Design Requirements

Outdoor Patio Restaurants shall be designed and used to accommodate seating of customers

b) Seating Capacity Requirements

i) An Outdoor Patio Restaurant shall be limited to a seated capacity of a minimum of 1.10 square metres of patio area per person.

ii) Maximum seated capacity shall be inclusive of all outdoor areas and portions of the patio that cross property lines such as road allowances.

c) Location Requirements:

i) Except as provided in Subsection b) (ii) below, no Outdoor Patio Restaurant shall be permitted on a lot where any lot line abuts a Residential Zone or where such lot is separated from a Residential Zone by a laneway; and,

ii) Where only the rear lot line abuts a Residential Zone or the lot is separated from the Residential Zone by a laneway, an outdoor commercial patio shall only be permitted in the front yard.

d) Prohibition of Commercial Entertainment and Recreation:

That portion of a lot on which the Outdoor Patio Restaurant is permitted shall not be used for commercial entertainment or commercial recreation including live or recorded music or dance facilities.”
City of Hamilton

9. That Section 18. (11) SPECIAL REQUIREMENTS FOR OUTDOOR PATIOS, of Zoning By-law No. 6593 (former City of Hamilton), is hereby amended by deleting the following regulation:

“18 (11) Notwithstanding any of the provisions of the By-law every outdoor patio shall comply with the following,

(a) Seating Capacity Requirements:

1. No outdoor patio shall provide for,

   A. more than 50% of the seating accommodation permitted under the Liquor Licence Act to the restaurant or tavern with which the outdoor patio is associated, or

   B. seating accommodation for more than 50 persons,

   Whichever is the greater;

(b) Location Requirements:

1. Except as provided in paragraph 2, no outdoor patio shall be located where any lot line adjoins a residential district or is separated from a residential district by a lane or alley.

2. Where only the rear lot line adjoins a residential district or is separated from the residential district by a lane or alley, an outdoor patio shall not be prohibited in the front yard.

3. Where a lot adjoins a residential district or is separated from the residential district by a lane or alley, no outdoor patio shall be located above the elevation of the floor of the first storey of the principal building.”

And replacing it with the following:

“18. (11) SPECIAL REQUIREMENTS FOR OUTDOOR PATIOS

Notwithstanding any provisions of this By-law, every Outdoor Patio shall comply with the following:
a) Design Requirements

Outdoor Patios shall be designed and used to accommodate seating of customers.

b) Seating Capacity Requirements

i) An Outdoor Patio shall be limited to a seated capacity of a minimum of 1.10 square metres of patio area per person.

ii) Maximum seated capacity shall be inclusive of all outdoor areas and portions of the patio that cross property lines such as road allowances.

c) Location Requirements:

i) Except as provided in Subsection b) (ii) below, no Outdoor Patio shall be permitted on a lot where any lot line abuts a Residential Zone or where such lot is separated from a Residential Zone by a laneway; and,

ii) Where only the rear lot line abuts a Residential Zone or the lot is separated from the Residential Zone by a laneway, an Outdoor Patio shall only be permitted in the front yard.

d) 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.”

**City of Stoney Creek**

10. That PART 2 – DEFINITIONS, of Zoning By-law 3692-92 (former City of Stoney Creek), is hereby amended by deleting the following definition:

“Restaurant – Outdoor Patio

Means an outdoor area used on a seasonal basis accessory to a restaurant where the outdoor patio is permitted in the respective zone, which outdoor patio restaurant provides seating accommodation as well as meals or refreshments for the public for consumption on the premises and located entirely on the same lot as the restaurant. An outdoor patio restaurant may be covered by a roof or roof structure.”
and replacing it with the following:

“Restaurant – Outdoor Patio

Shall mean any outdoor area used in conjunction with any establishment licensed under the Liquor Licence Act, where meals or refreshments are served to the public for consumption on the premises.”

11. That PART 8 – COMMERCIAL ZONES, of Zoning By-law 3692-92 (former City of Stoney Creek), is hereby amended by deleting the following regulation:

“8.1.7 Outdoor Patio Restaurants

For any outdoor patio restaurant within any commercial zone, the following provisions shall apply to said outdoor patio restaurant:

(a) No part of the outdoor patio restaurant shall be used as a place of entertainment for the purpose of providing entertainment or amusement including live or recorded music, dance facilities, theatrical performances, video games, film presentations, video screens or televisions.

(b) No outdoor patio restaurant shall be located in any yard abutting a residential zone.

(c) No outdoor patio restaurant shall be located in any yard abutting a street if a residential zone is located on the opposite side of said street, unless the patio restaurant is set back a minimum distance of 30 metres from the residential property line.

(d) The seating capacity of the outdoor patio restaurant shall not exceed 50 percent of the seating capacity of the restaurant with which the patio is associated in any event the maximum number of people that may be accommodated in the outdoor patio shall be 50.

and replacing it with the following:

“8.1.7 Outdoor Patio Restaurants

Notwithstanding any provisions of this By-law, every Outdoor Patio Restaurant shall comply with the following:

a) Design Requirements

Outdoor Patio Restaurants shall be designed and used to accommodate seating of customers
b) Seating Capacity Requirements

i) An Outdoor Patio Restaurant shall be limited to a seated capacity of a minimum of 1.10 square metres of patio area per person.

ii) Maximum seated capacity shall be inclusive of all outdoor areas and portions of the patio that cross property lines such as road allowances.

c) Location Requirements:

i) Except as provided in Subsection b) (ii) below, no Outdoor Patio Restaurant shall be permitted on a lot where any lot line abuts a Residential Zone or where such lot is separated from a Residential Zone by a laneway; and,

ii) Where only the rear lot line abuts a Residential Zone or the lot is separated from the Residential Zone by a laneway, an Outdoor Patio Restaurant shall only be permitted in the front yard.

d) Prohibition of Commercial Entertainment and Recreation:

That portion of a lot on which the Outdoor Patio Restaurant is permitted shall not be used for commercial entertainment or commercial recreation including live or recorded music or dance facilities.”

**City of Hamilton Comprehensive Zoning By-law**

12. That Section 4: GENERAL PROVISIONS of By-law 05-200 is amended by deleting the following regulation:

“4.20 a) Seating Capacity Requirements:

No outdoor patio shall provide for:

i) More than 50% of the seating accommodation permitted under the Liquor Licence Act to the restaurant with which the outdoor commercial patio is associated; or,

ii) Seating accommodation for more than 50 persons.

whichever is the greater.”
Appendix ‘A’ to Report PED09256
Page 12 of 12

13. That Section 4: GENERAL PROVISIONS of By-law 05-200 is amended by adding the following regulations:

“4.20 a) Design Requirements

Outdoor Commercial Patios shall be designed and used to accommodate seating of customers.

b) Seating Capacity Requirements

i) An Outdoor Commercial Patio shall be limited to a seated capacity of a minimum of 1.10 square metres of patio area per person.

ii) Maximum seated capacity shall be inclusive of all outdoor areas and portions of the patio that cross property lines such as road allowances.”

7. That the Clerk is hereby authorized and directed to proceed with the giving of notice of passing of this By-law in accordance with the Planning Act.

PASSED and ENACTED this [____] day of [____], 2009.

__________________________  __________________________
Fred Eisenberger            Kevin C. Christenson
MAYOR                      CITY CLERK

CI-09-E
City of Hamilton Zoning By-law No. 6593

18 (11) Notwithstanding any of the provisions of the By-law every outdoor patio shall comply with the following,

(a) Seating Capacity Requirements:

1. No outdoor patio shall provide for,
   
   A. more than 50% of the seating accommodation permitted under the Liquor Licence Act to the restaurant or tavern with which the outdoor patio is associated, or
   
   B. seating accommodation for more than 50 persons,

   Whichever is the greater;

(b) Location Requirements:

1. Except as provided in paragraph 2, no outdoor patio shall be located where any lot line adjoins a residential district or is separated from a residential district by a lane or alley.

2. Where only the rear lot line adjoins a residential district or is separated from the residential district by a lane or alley, an outdoor patio shall not be prohibited in the front yard.

3. Where a lot adjoins a residential district or is separated from the residential district by a lane or alley, no outdoor patio shall be located above the elevation of the floor of the first storey of the principal building.

The Township of Glanbrook Zoning By-law No. 464

Section 25.2

(o) Accessory Outdoor Patio Restaurants

An outdoor patio is a permitted accessory use to any restaurant subject to the following provisions:

(i) No part of the outdoor patio restaurant shall be used as a place of entertainment for the purpose of providing entertainment or amusement including live or recorded music, dance facilities, theatrical performances, video games, film presentations, video screens, television nor any other similar activities;
(ii)  No outdoor patio restaurant shall be located in any yard abutting land zoned Residential in this By-law or where the abutting land is used for residential purposes;

(iii) No outdoor patio restaurant shall be located in any yard abutting a street if a Residential Zone is located on the opposite side of said street, unless the patio restaurant is set back a minimum distance of 30 metres (100 feet) from the residential property line; and

(iv) The seating capacity of the outdoor patio restaurant shall not exceed fifty percent (50%) of the seating capacity of the restaurant with which the patio is associated, and in any event the maximum number of people that may be accommodated in the outdoor patio shall be 50 persons.

**City of Stoney Creek Zoning By-law No. 3692-92**

Section 8.1.7 Outdoor Patio Restaurants

For any outdoor patio restaurant within any commercial zone, the following provisions shall apply to said outdoor patio restaurant:

(a) No part of the outdoor patio restaurant shall be used as a place of entertainment for the purpose of providing entertainment or amusement including live or recorded music, dance facilities, theatrical performances, video games, film presentations, video screens or televisions.

(b) No outdoor patio restaurant shall be located in any yard abutting a residential zone.

(c) No outdoor patio restaurant shall be located in any yard abutting a street if a residential zone is located on the opposite side of said street, unless the patio restaurant is set back a minimum distance of 30 metres from the residential property line.

(d) The seating capacity of the outdoor patio restaurant shall not exceed 50 percent of the seating capacity of the restaurant with which the patio is associated in any event the maximum number of people that may be accommodated in the outdoor patio shall be 50.

**4.20 OUTDOOR COMMERCIAL PATIOS**

Notwithstanding any provisions of this By-law, every outdoor commercial patio shall comply with the following:

a) Design Requirements
Outdoor Commercial Patios shall be designed and used to accommodate seating of customers

b) Seating Capacity Requirements

An Outdoor Commercial Patio shall be limited to a seated capacity of a minimum of 1.10 square metres of patio area per person.

Maximum seated capacity shall be inclusive of all outdoor areas and portions of the patio that cross property lines such as road allowances.”

c) Location Requirements:

i) Except as provided in Subsection b) (ii) below, no outdoor patio shall be permitted on a lot where any lot line abuts a Residential Zone, Downtown D5 or Downtown D6 Zone or where such lot is separated from a Residential Zone, Downtown D5 or Downtown D6 Zone by a laneway; and,

ii) Where only the rear lot line abuts a Residential Zone, Downtown D5 or Downtown D6 Zone or the lot is separated from the Residential Zone, Downtown D5 or Downtown D6 Zone by a laneway, an outdoor patio shall be permitted in the front yard.

d) 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.”