



Town of Newmarket
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Temporary Outdoor Patio Program 2021 Season – New Application for Town Property

Application Checklist			
Completed copy of this application			
Copy of business name registration			
Proposed site plan (see Appendix B)			
Signed Insurance and Indemnification Declaration (see Appendix C)			
Copy of existing AGCO liquor licence for principal establishment			
Signed copy of the General Conditions and Guidelines (see Appendix D)			

PART I: General Information

Business Information	
Owner Name:	
Phone Number:	
E-mail Address:	
Registered Business Name:	
Operating Business Name:	
Business Address:	
After Hours Contact #1: (name and phone #)	
After Hours Contact #2: (name and phone #)	

- Will alcohol be served on the temporary patio? Yes No
- Do you currently have an AGCO approved liquor licence for your establishment? Yes No
- If yes, is your current AGCO licence for: Indoor Outdoor Both
- Are you requesting to temporarily extend an existing patio? Yes No
- Are you requesting a new temporary patio? Yes No

To minimize administrative burden for licensees, those who meet the criteria established by the AGCO (see **Appendix A**) will not be required to apply to the AGCO or pay a fee to temporarily extend their patio or add a temporary new licensed patio.

Licensees are also not required to submit any documentation to the AGCO to demonstrate compliance with **Appendix A**. However, licensees are required to produce such documentation upon request of the AGCO.

PART II: Proposal

Which type of temporary patio are you proposing? (Choose One)

Please refer to the diagrams below for a description on each type of temporary patio.

Small Frontage Patio

Curbside/Sidewalk Patio

Parklet Patio

Laneway Patio

Other (please specify): _____

Examples of Patio Styles

1. Small Frontage Patio

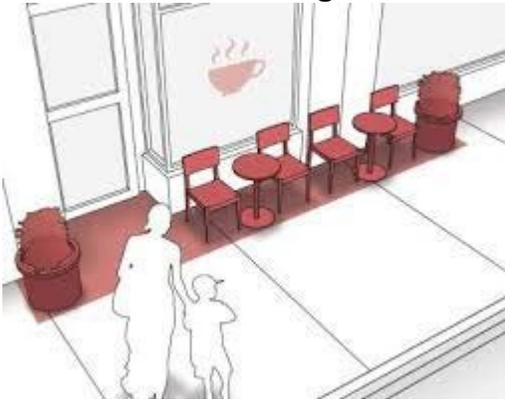


Illustration courtesy of City of Toronto

- Must be located against the building wall
- No umbrellas, fencing or enclosures
- Alcohol is **not permitted**
- Tables, chairs, and displays removed after business hours
- No A-frame sign adjacent on the sidewalk
- Sidewalk width of 1.5m must be maintained and unobstructed for pedestrian access. 1.8m access is recommended.

2. Laneway Patio



Illustration courtesy of City of Toronto

- Must be located against the building wall
- No umbrellas, fencing or enclosures
- Tables, chairs, and displays removed after business hours
- No enclosures, structures, or visible screens
- Platform must be level with the sidewalk with cross slope no greater than 2% and running slope of no greater than 4%
- Platform must safely bear weight of people and elements on the platform; be stable, safe and slip-resistant; accessible between sidewalk level and the platform; and comply with the standards for decks, platforms and ramps in the Accessibility for Ontarians with Disabilities Act and the Ontario

3. Curbside/Sidewalk Patio



Illustration courtesy of City of Toronto

- Existing parking space(s) are eligible for design
- Unobstructed emergency access route conforming with ON Building and Fire Code
- Must be a minimum of 5m away from designated pedestrian crossover while ensuring proper sightlines
- No enclosures, structures, or visible screens
- Not interfere with transit stops or curbside garbage collection
- Sidewalk width of 1.5m must be maintained and unobstructed for pedestrian access (1.8m recommended)
- Must indicate in your proposed site plan all of the objects (if any) that will be between your building

4. Parklet Patio

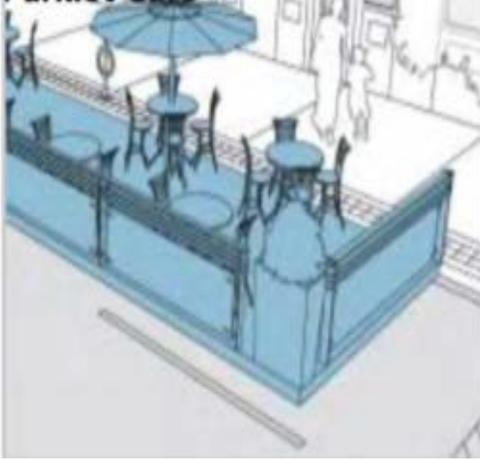


Illustration courtesy of City of Toronto

- Existing parking space(s) are eligible for design
- On a street with posted speeds 40 km/hr or less
- Must be in front of your establishment and not extending to your neighbours' unless you submit letters of consent
- Unobstructed emergency access route conforming with ON Building and Fire Code
- Must be located a minimum of 1m from any driveway or laneway
- Must be a minimum of 5m away from designated pedestrian crossover while ensuring proper sightlines
- No enclosures, structures, or visible screens
- Not interfere with transit stops or curbside garbage collection

This application may contain personal information as defined under the Municipal Freedom of Information and Protection of Privacy Act. The information collected is required pursuant to the terms of the Municipal Act and will be used by the Town of Newmarket to process the application, and to determine whether to issue a license. Information will also be used for administration of such license, and for law enforcement purposes to ensure compliance with all applicable statutes, regulations and by-laws.

I have read the provisions of this Application and Appendixes A, B, C and D. I have signed those Appendixes as required. I verify that I meet all necessary requirements imposed to be eligible to obtain a 2021 Temporary Outdoor Patio Program permit.

Signed _____

Date _____

Name (print): _____

Position (if a corporate applicant):

"I have the authority to bind the company (if a corporate applicant)"

Appendix A

Minimum Criteria under the AGCO

The AGCO has amended Regulation 719 under the Liquor Licence Act to provide flexibility for liquor sales licensees (eg. licensed bars and restaurants). Restaurants and bars who wish to temporarily extend the physical size of their existing licensed patio or temporarily add a new licensed patio are authorized to do so, subject to the following criteria:

1. The physical extension of the premises is adjacent to the premises to which the licence to sell liquor applies;
2. The municipality in which the premises is situated has indicated it does not object to an extension;
3. The licensee is able to demonstrate sufficient control over the physical extension of the premises;
4. There is no condition on the liquor sales licence prohibiting a patio; and,
5. The capacity of any new patio, or extended patio space where the licensee has an existing licensed patio, does not exceed **1.11 square metres per person**.
6. In the case of “By the Glass” licensees, the sale and service of the wine, beer and/or spirits manufactured by the manufacturer within the physical extension of the premises is primarily aimed at promoting the manufacturer’s product and either providing an enhanced tourist experience or fulfilling an educational purpose.

All licensees are expected to first and foremost comply with physical distancing measures and any other public health guidelines or orders issued by the Ontario Government or by any other applicable level of government. The AGCO recognizes that physical distancing requirements as set out in the Government’s [Framework for Reopening our Province](#) will likely require licensees to operate at well below maximum capacity.

If your application meets the above criteria, you are **not required** to apply to AGCO for a temporary extension of your existing liquor licence or for a temporary new patio proposal. There are also no fees required to be paid to the AGCO.

If you do not meet the above criteria, you are required to follow the usual application process for a temporary extension of premises and apply through the AGCO website.

This temporary exemption program, specifically offered through AGCO, is only valid until January 1, 2022. However, please note that the Town of Newmarket’s Temporary Outdoor Patio Program expires on November 1, 2021.

I have read Appendix A and agree to the terms and conditions as outlined by the AGCO. I verify that I meet all necessary requirements imposed to be eligible to obtain a 2021 Temporary Outdoor Patio Program permit.

Signed _____

Date _____

Name (print): _____

Position (if a corporate applicant): _____

"I have the authority to bind the company (if a corporate applicant)"

Appendix B

Site Plan and Design Requirements

The Temporary Outdoor Patio Program has relaxed a number of restrictions that are typically imposed on Outdoor Serving Patios within the Town of Newmarket.

Your temporary patio design must conform to the following requirements:

Identification Requirements

- One piece of valid government issued identification is required for any person (or signing authority for corporations) who appears on the Registered Business.
- A copy of your registered business name and additional information outlined must be provided in **PART 1** of this application package.

Site Plan of Proposed Temporary Outdoor Patio

Please submit drawings that show:

- Location and dimensions of the proposed temporary patio;
- Total area of the proposed patio in square metres;
- Seating diagram to meet provincial seating restrictions (1.11 square metres per person);
- Proposed barriers or fencing with a minimum height of 36 inches (91 cm) and their placements to mitigate public safety and traffic-related concerns;
- Location and dimensions of the building, including entrances/exits and washrooms;
- Location of adjacent buildings' entrances/exits;
- Location and dimensions of any enclosures, umbrellas, tents, awnings, etc.
- Location of fire extinguishers;
- Location of York Region Transit stops close to the patio;
- Location of curb cuts close to the patio; and
- The maximum occupant load of your business and patio, pursuant to the Ontario Building Code.

Insurance

You must hold and provide General Liability Insurance from an insurer licensed in the province of Ontario for \$2 million per occurrence with an aggregate limit of no less than \$5 million to the Corporation of the Town of Newmarket against any liability for property damage or personal injury, negligence including death which may arise from the applicants operations under this agreement. The Corporation of the Town of Newmarket must be included as an "Additional Named Insured". In addition the Commercial General Liability shall contain Cross Liability and Severability Clauses and Products & Completed Operations coverage including a standard contractual liability endorsement.

Fees

Council for the Town of Newmarket has waived all applicable fees associated to its current Outdoor Serving Patio Program. Such fees include your 2021 approved licensing fee, patio dimensional fees (where located on Town property), and any other fees imposed in relation to inspections or authorizations to construct a temporary patio.

The AGCO has also waived any fees or application processes relating to the temporary extension of existing licensed patios or existing licensee applications for a new temporary patio. For more information, please visit the AGCO website directly.

Design Requirements

- All patios must maintain the requirements of the Accessibility for Ontarians with Disabilities Act. These guidelines set out basic requirements of the AODA. It is the responsibility of each business to ensure their own compliance with the Act.
- A minimum passable sidewalk width of 1.5m must be maintained at all times to ensure accessibility for pedestrians. 1.8m minimum width is preferred.
- Patios are not permitted to reduce the width of the traffic lanes of the public street. A minimum street width of 6m must be maintained at all times to ensure adequate width for emergency vehicles.
- Patios are not permitted to occupy more than 2 on-street parking spaces and are subject to Town approval and consultation with adjacent property owners. The Town will consider proposals that occupy more than 2 on-street parking spaces in special circumstances.
- The Town will accept a variation of barrier types to be used for safety mitigation.
- Exterior barriers onto on-street parking spaces must be affixed with high visibility reflective markers for nighttime visibility.
Patios which are installed adjacent to a public sidewalk or high traffic pedestrian walkway are required to have a plexi-glass or other impermeable barrier separating the patio from the sidewalk.

Appendix C

Signed Insurance and Indemnification Declaration

In this Appendix C,

“Claims” means claims, losses, actions, suits, proceedings, causes of action, demands, damages (incidental, direct, indirect, special, consequential or otherwise), fines, duties, interest, penalties, judgements, executions, liabilities, responsibilities, costs, charges, compensation, payments and expenses including, without limitation, any professional, consultant and legal fees on a complete indemnity basis.

“Owner” means the owner listed in this application.

“Injury” means bodily injury, personal discomfort, mental anguish, shock, sickness, disease, death, false arrest, detention or imprisonment, assault, threatening, malicious prosecution, libel, slander, defamation of character, invasion of privacy and discrimination, or any of them, as the case may be.

Insurance:

The Owner holds General Liability Insurance from an insurer licensed in the province of Ontario for \$2 million per occurrence with an aggregate limit of no less than \$5 million insuring the Owner and the Corporation of the Town of Newmarket (“the Town”) against any liability for property damage or personal injury, negligence including death which may arise from the applicants operations under this agreement. The Town must be included as an “Additional Named Insured”. In addition the Commercial General Liability shall contain Cross Liability and Severability Clauses and Products & Completed Operations coverage including a standard contractual liability endorsement.

Indemnity:

The Owner shall promptly defend, protect, indemnify and hold completely free and harmless the Town from and against any and all Claims in connection with any Injury or any loss or damage to property (a) arising from or out of this Application or the occupancy or use by the Owner of any lands owned by the Town, or any part thereof, or occasioned wholly or in part by any fault, default, negligence, act or omission of the Owner or by any person permitted to be on the premises under the control of the Owner; and (b) arising from, relating to or occurring in whole or in part by any fault, default, negligence, act or omission by the Owner or any of the directors, officers, servants, employees, contractors, agents, invitees and licensees of the Owner and all other persons over whom the Owner (i) may reasonably be expected to exercise control, and (ii) is in law responsible. If the Town shall be made a party to any litigation commenced by or against the Owner, then the Owner shall promptly indemnify and hold completely free and harmless the Town and shall pay the Town all costs and expenses, including, without limitation,

any professional, consultant and legal fees on a complete indemnity basis that may be incurred or paid by or on behalf of the Town in connection with such litigation on demand. The indemnity of the Owner contained in this Appendix C shall not be prejudiced by, and shall survive the expiration of the time period under which the permit for this Application applies.

I have read this Appendix C and agree to its terms and conditions in consideration of any grant of a Temporary Outdoor Patio Permit provided to me. I verify that I meet all necessary requirements imposed to be eligible to obtain a 2021 Temporary Outdoor Patio Program permit.

Signed _____

Date _____

Name (print): _____

Position (if a corporate applicant): _____

“I have the authority to bind the company (if a corporate applicant)”

Appendix D

Temporary Outdoor Patio Guidelines and General Conditions

General Conditions

1. Any person or persons intending to occupy a portion of the municipal right of way for any purpose, including a portion of the sidewalk, boulevard, or on-street parking must first receive permission from the Town.
2. Temporary outdoor patios are permitted to operate no earlier than April 9 2021. Set up for approved temporary outdoor patios may begin no sooner than April 6, 2021. The Town reserves the right to grant permission to open at an earlier or later date if deemed appropriate by The Town.
3. Patios will be removed by no later than November 1, 2021.
4. Permission to install a patio for the 2021 season does not entitle a business to any right or expectation to be able to install a patio in subsequent seasons.
5. Any required sidewalk extensions must be completed before obstruction of a sidewalk for construction or operation of a patio.
6. The applicant assumes all maintenance and liability for the patio structure and sidewalk extension and may be required to undertake or alterations or repairs as are required by the Town to maintain safety and accessibility.
7. The Town retains the right to access the patio and/or sidewalk extension if needed for maintenance or emergency access to Town property.
8. Permission to occupy the municipal right of way becomes null and void if the applicant should fail to meet the requirements set out in this application and other applicable documents, in which case, the Town shall be at liberty to take any action it deems necessary to repair the patio structure or to reinstate the site to its original condition for public protection at the expense of the applicant. In all cases the decision of the Town is final.
9. The applicant shall maintain access to all public and private properties for the duration of the work.
10. No business shall be eligible to operate an outdoor patio unless the business is in compliance with all Town requirements.
11. The Applicant shall be deemed to be the “constructor” and the “owner” for all purposes under the Occupation Health and Safety Act. The Applicant shall further be deemed to be the “occupier” for all purposes under the Occupiers Liability Act.
12. The Applicant agrees to indemnify and save the Town harmless from and against all losses, damages, actions or causes of action, suits, claims, demands, penalties, interest and/or legal fees on a substantial indemnity basis arising in connection with any matter that may arise from the issuance of a permit hereunder or the activities that occur on a patio or sidewalk extension.
13. The Town retains the right to access any planters, baskets, light posts, or other infrastructure for watering, maintenance, or other matters. The Town may elect not to install planters at the location of the patios.
14. All municipal property, including the sidewalk, roadway, lighting, or other features will be returned to their initial condition or repaired of any damages. Damages not repaired by the applicant will be repaired or replaced by the Town at the applicant’s cost.
15. Any costs, expenses or liabilities incurred by the Town as set out above may be collected by the Town from the Applicant in the same manner as municipal taxes.
16. The Applicant agrees to clean the area around and under the patio with the use of a pressure washer following the removal of the patio.

- 17. All approved patios must be in compliance with the Town's noise bylaw 2004-94 as amended.
- 18. The applicant agrees to remove any accumulation of snow, debris, refuse or garbage resulting from the operation of the temporary patio.

I have read this Appendix D and agree to its terms and conditions in consideration of any grant of a Temporary Outdoor Patio Permit provided to me. I verify that I meet all necessary requirements imposed to be eligible to obtain a 2021 Temporary Outdoor Patio Program permit.

Signed _____

Date _____

Name (print): _____

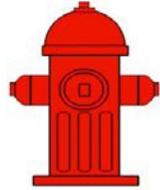
Position (if a corporate applicant): _____

“I have the authority to bind the company (if a corporate applicant)”

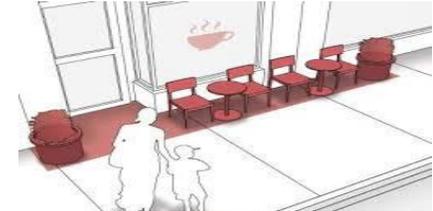
Temporary Outdoor Patio Program

Fire Code, Building Code, and Planning Requirements

A minimum of **3.0m** clearance from fire department connections and hydrants



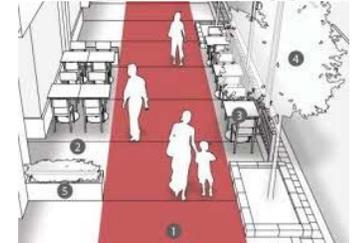
Temporary patios must not extend in front of other businesses or building exits



A fire extinguisher must be available within **25.0m** of any part of the temporary patio



A clear path of pedestrian travel of **1.5m** minimum should be maintained



Exit openings must remain unobstructed at all times & provided with exit signs where not clearly visible



Temporary curb ramps may be required to provide a safe passage for pedestrians to cross between the road and the sidewalk



CSA-certified electric or propane patio heaters (with max. 20lb tank) Must be located at least **3.0m** away from tree branches and not stored on Town property when not in use



The side of the temporary patio adjacent to vehicle traffic shall maintain a minimum distance of **1.0m** from the edge of any adjacent travel lane

