

Temporary Outdoor Patio Program Application Package

Application Checklist	
Completed copy of this application	
Copy of business name registration	
Proposed site plan (see Part II)	
Copy of current liability insurance (see Part III)	
Copy of existing AGCO Liquor Licence for principal establishment	
Signed copy of Operating Requirements (see Part IV)	
Signed copy of Property Owner Declaration (for patios on private property) (see Part V)	

Please ensure all information is included in the application. Incomplete applications will not be accepted. All applications are required to be submitted by **February 1st** annually, for patio's proposed to be located on Town Property. Please send your completed application package to licensing@newmarket.ca.





Town of Newmarket
 395 Mulock Drive
 P.O. Box 328
 Newmarket, ON L3Y 4X7

licensing@newmarket.ca
 tel.: 905-953-5300
 fax: 905-953-5141

Temporary Outdoor Patio Program Application

PART I: General Information

Business Information	
Owner Name:	
Phone Number:	
E-mail Address:	
Registered Business Name:	
Business Address:	
After Hours Contact:	

Screening Questions

- Is your proposed patio on Town Property or Private Property? Town Property Private Property
- Will alcohol be served on the temporary patio? Yes No
- Do you currently have an AGCO approved liquor license for your establishment? Yes No
- Are you requesting a temporary extension of an existing patio, or a new temporary patio? Extension of Current New Temporary Patio
- How long are you seeking approval? 1 Season 2 Season

Important Information for Applicants

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 licence. Information will also be used for administration of such licence, and for law enforcement purposes to ensure compliance with all applicable statutes, regulations, and by-laws.

I have read the provisions of this Application. I verify that I meet all necessary requirements imposed to be eligible to obtain a 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)"

PART II: Proposal

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 meters.
- Seating diagram to meet provincial seating restrictions (1.11 square meters 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.

Design Requirements

- 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.
- 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.
- 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.

Please describe the accessibility and safety measures taken to ensure compliance with the Accessibility for Ontarians with Disabilities Act.

Which type of temporary patio are you proposing?

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

Small Frontage Patio

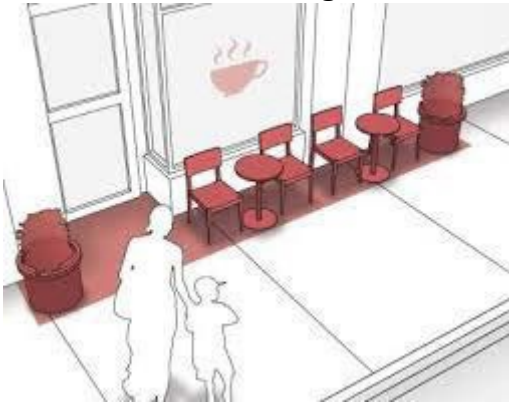
Curbside/Walkway Patio

Parklet Patio

Other (please specify): _____

Examples of Patio Styles

1. Small Frontage Patio



- 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.

Illustration courtesy of City of Toronto

2. Curbside/Walkway Patio

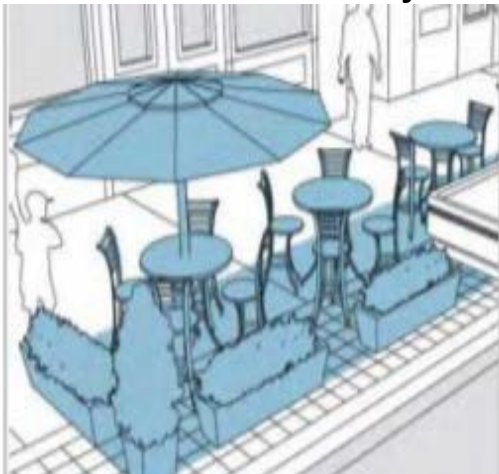


Illustration courtesy of City of Toronto

- 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

3. Parklet Patio

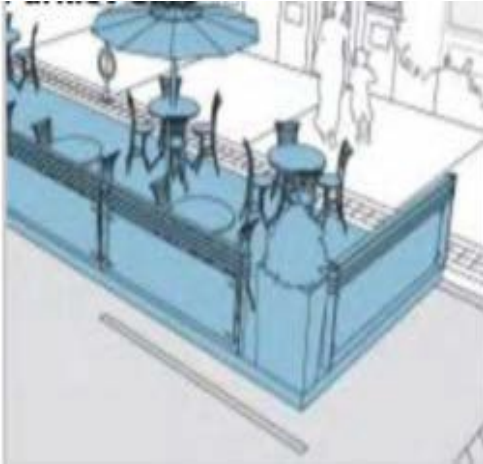


Illustration courtesy of City of Toronto

- 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

Part III: Signed Insurance and Indemnification Declaration

In this Part III,

“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 applicant’s 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 Part III 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 Part III 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 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)”

Part IV: Operating Requirements

The Operational Requirements section delineates specific requirements for **Owners** overseeing the operation of their **Temporary Patios**:

- 1) **Temporary Patios** may only be operated once a final inspection has been completed, payments have been made, and final approval by way of an **Outdoor Serving Area Licence** has been issued by the Town's Licensing Division.
- 2) **Temporary Patios** on Town **Property** will be removed by no later than October 30th of the year the patio was approved.
- 3) **Temporary Patios** on private **Property** are to be removed no later than the date of expiration on the Outdoor Serving Area issued to an applicant.
- 4) Permission to install or expand a patio for a period of time does not entitle a business to any right or expectation to be able to install or extend a patio in subsequent years.
- 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 alterations or repairs as are required by the Town to maintain safety and accessibility.
- 7) Permission to extend or install a patio becomes null and void if the applicant should fail to meet the requirements set out in this Policy, the application, or 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.
- 8) The applicant shall maintain access to all public and private properties for the duration of the work.
- 9) No **Temporary Patios** are permitted to be installed on a highway or vehicular lane way.
- 10) No business shall be eligible to operate a **Temporary 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.
- 13) 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.
- 14) 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.
- 15) It is the **Owner's** responsibility to install, remove and store the **Temporary Patio**
- 16) All approved patios must be in compliance with the Town's Noise By-law 2017-76 as amended. No live amplified music is permitted on temporary or permanent patios.
- 17) **Temporary Patios** are required to be closed to the public between the hours of 1am and 8am
- 18) Every **Temporary Patio** which is illuminated in an area adjacent to a residential use shall ensure all lighting fixtures and illumination are arranged, designed, and installed to deflect the light down and away from residential buildings, lots, and streets. Lighting must be approved by the Town.
- 19) **Temporary Patio Owners** must ensure compliance with all federal, provincial and municipal regulations.
- 20) A fire extinguisher must be available within 25m of any part of the **Temporary Patio**.
- 21) All **Temporary Patios** must maintain compliance with the Accessibility for Ontarians with Disabilities Act, 2005
- 22) Business activities beyond seating and food/drink service is not permitted

I have read this Part IV 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 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)”

PART V: Property Owner Permission (for Temporary Patios on Private Property only)

In order to be eligible to offer a new or extended temporary outdoor patio on **private property**, you must first obtain a written permission from the property owner directly.

Important Information for Private Property Owners

In an effort to relax the outdoor patio program on a temporary basis, the Town will not require an amendment process for previous site plan approvals. This includes changes to the number of parking spaces required onsite or alterations to existing site plans. The property owner acknowledges and accepts that this is a temporary measure for the Temporary Outdoor Patio season and all changes will be reverted back to their original state by no later than **October 30, annually**.

Signed _____

Date _____

Name (print): _____

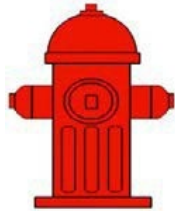
Position (if a corporate applicant): _____

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

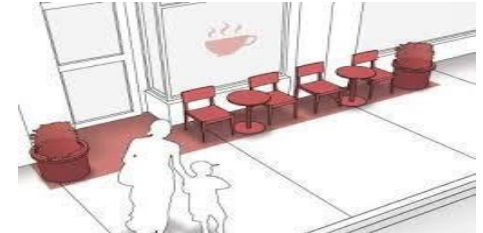
Temporary Outdoor Patio Program

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

