

Special Conditions for Temporary Patio Permit on Public Property (2023)

1. Upon approval and issuance of a Temporary Patio Permit, the Town grants to the Applicant permission to construct and maintain a temporary patio upon the Town's road allowance substantially as outlined in the application and subject to the terms and conditions set out in these Special Conditions in addition to the General Conditions included in the application. In the event that the Town requires the use of the sidewalk or road allowance for construction or reconstruction purposes, the Town may terminate the Temporary Patio Permit, or require alteration of the temporary patio, upon reasonable notice.
2. Certain temporary patios may not be permitted due to required access to utilities or their proximity. Applicants may be required to demonstrate that no municipal fixture or utility is being impacted and how the drainage flow is maintained. In the event that a fixture or utility appears to be impacted, written approval is required from the agency or department responsible for the fixture or utility.
3. The Applicant shall not, by virtue of the Temporary Patio Permit, acquire any possessory title or easement or prescriptive rights over any part of the road allowance other than as set out in the permit.
4. The temporary patio shall be constructed and maintained by the applicant as per the construction guidelines approved by the Town and must be compliant with the Accessibility for Ontarians with Disabilities Act (AODA). A temporary sidewalk patio will not negatively impact vehicle travel and sight lines within an intersection at a corner lot. Temporary patios that are elevated and require structural support are subject to the Building and Zoning Department review and applicable fees.
5. All temporary "bump-out" sidewalks extending around the temporary patio and onto the on-street parking area will be constructed and maintained by the Town, include satisfactory delineation of the structure within the Road Allowance (e.g. fluorescent and reflective markers). Due to circumstances, certain proposed patios may not be permitted due to the constraints to construct an accessible bump-out.
6. When the temporary patio is not in use all furnishings, fences, signage and other patio improvements must be secured and access by the public restricted. Any approved patio heaters must be stored indoors when the patio is not in use.

7. The Applicant shall maintain the temporary patio and any related features whether within or outside of the road allowance at all times in a good and reasonable state of repair and at no time allow the temporary patio or any part thereof to become a public nuisance or hazard. If not so maintained, the Town may, at its option, require the Applicant to remove the temporary patio and restore the road allowance to a reasonable standard at the Applicant's expense; or, alternatively, the Town may conduct such remedial work as the Town, in its sole discretion, considers advisable, at the Applicant's expense. If the Applicant fails to pay the cost of the Town work within 30 days, said cost will be added to the tax roll for the Applicant's property and collected in the same manner as taxes.
8. The owner and occupant will maintain a comprehensive policy of public liability and property damage insurance acceptable to the Town providing occurrence-based insurance coverage in an amount of not less than \$2,000,000.00 per occurrence exclusive of interest and costs and \$5,000,000.00 aggregate. Such policy shall protect the Town from all loss, damage, claims or actions arising howsoever out of use and maintenance of the road allowance for a temporary patio and shall name the Town as an additional insured there under. Such policy shall provide, for the following endorsements: Cross Liability with a Severability of Interests Clause, Contractual Liability, Host Liquor Liability and a 30 day notice of cancellation clause.
9. The Applicant shall completely indemnify and save harmless the Town against all suits, claims, actions, or demands of any kind whatsoever which may be brought against the Town as a result of the use of the road allowance and construction of a temporary patio. In the event that the Town is called upon to answer any such claim, the Town shall have the right to claim over against the Applicant by way of action in any court of competent jurisdiction to collect any sums found owing by the Town or paid by the Town by way of settlement, and may collect these sums in like manner as taxes. It is understood and agreed by the parties that these remedies are in addition to any other remedies allowed by law to the Town for the collection of such amounts in addition to any specific rights of collection as outlined in the Municipal Act, S.O. 2001, C.25, as from time to time amended.
10. The Applicant agrees not to hold the Town liable for any damage occurring to any element of the temporary patio encroaching onto the road allowance including any damage that may be occasioned by Town employee-operated equipment.

11. The Applicant acknowledges and agrees that for purposes of repair, maintenance and reconstruction of the road allowance, the Town at its sole discretion may enter, remove or relocate the temporary patio, solely at the Applicant's expense.
12. The Applicant shall not extend, enlarge or reconstruct the temporary patio, or any part thereof, in any manner whatsoever without the prior written consent of the Town. Nothing in these Specific Conditions or the Temporary Patio Permit will constitute an express or implied consent or permission from the Town to allow any further extension, enlargement or reconstruction of the said temporary patio.
13. Upon termination of the Temporary Patio Permit, all municipal property, including the sidewalk, roadway, lighting, or other features will be returned to their initial condition and any damages repaired to the satisfaction of the Town. Damages not repaired by the applicant will be repaired or replaced by the Town at the applicant's cost. 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.