



Town of Niagara-on-the-Lake

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REPORT #: CDS-23-205

COMMITTEE DATE: 2023-11-14

DUE IN COUNCIL: 2023-11-21

REPORT TO: COTW-General

SUBJECT: Temporary Patio Program Review

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Council support the Seasonal Patio Program for the urban area, in principle; and
- 1.2 Staff be directed to prepare a permanent program for Seasonal Patios for food and drink establishments within the urban area, including all necessary documentation and application requirements, based on the information and direction contained in this report.

2. EXECUTIVE SUMMARY

- The Town's Temporary Patio Program was established in 2020 to support local restaurants, bars and other food and drink establishments in their efforts to provide safe outdoor dining experiences during the COVID-19 pandemic.
- At the time, the Town created general guidelines for design and requirements for a Temporary Patio Program, intending to do a fulsome review later.
- Council extended the Temporary Patio Program in 2021, 2022 and 2023.
- As part the recommendations of Report No. CDS-23-005 (Seasonal Patio Program), Town Staff were directed to review and provide a recommendation report regarding the Minimum Design Standards and processing of a permanent program for Seasonal Patios.
- Staff has undertaken a comprehensive review of the existing Program and advise that a number of considerations and updates to the Temporary Patio Program will be required to support the continuation of Seasonal Patios on a long-term basis.
- Staff has conducted significant public engagement, through which residents, visitors and business owners have collectively indicated strong support for the continuation of seasonal patios in the Town.
- Staff recommend that Council direct the preparation of a permanent program for Seasonal Patios for food and drink establishments within the urban area, including all necessary documentation, application requirements and amendments, based on the information and direction contained in this report.

3. PURPOSE

The purpose of this report is to provide information to Council regarding the review of the current Temporary Patio Program and seek Council direction concerning the establishment of

a Seasonal Patio Program, to permit the operation of temporary outdoor patios on a long-term basis.

Planning Staff have reviewed the existing Temporary Patio Program, consulted with Town Staff in various departments, sought input from the Town's Urban Design Committee, Municipal Heritage Committee and Joint Accessibility Committee, and undertook public engagement. This report summarizes that consultation and highlights areas that require consideration for a permanent program for Seasonal Patios. Staff are seeking Council's endorsement and direction to return with a recommendation on a permanent Seasonal Patio Program.

4. BACKGROUND

In June 2020, the Alcohol and Gaming Commission of Ontario (AGCO) introduced legislation to allow restaurants and bars to temporarily extend outdoor patio spaces to accommodate patrons safely until January 1, 2021. The Program allowed businesses the opportunity to operate through COVID-19 restrictions and stimulate the local economy while maintaining public safety. In November 2021, the AGCO extended the legislation to allow for the temporary physical extension of food and/or drink premises (i.e., temporary patios) until January 1, 2023. In April 2022, the AGCO established permanent permissions for local area municipalities to approve temporary outdoor extensions of licensed premises, including patios, starting January 1, 2023 for eight (8) months per calendar year.

In line with the AGCO permissions, the Town established the Temporary Patio Program in June 2020 (Staff Report CS-20-013) to support local restaurants, bars and other food and drink establishments in their efforts to provide safe outdoor dining experiences during the pandemic. These measures provided flexibility for the business community to attract customers and allowed space for physical distancing in accordance with the Province's COVID-19 Regulations.

Since its introduction, the Temporary Patio Program has continued to be extended on an annual basis and is currently approved until February 2024, by way of Temporary Use By-laws.

In January 2023, Council directed Town Staff to review and provide a recommendation report regarding the Minimum Design Standards and processing of a permanent program for Seasonal Patios based on an initial internal review of the Program (Staff Report CDS-23-005, attached as **Appendix I** to this report).

5. DISCUSSION / ANALYSIS

The Temporary Patio Program has been well received by the business community, residents, and visitors. Since 2020, the Town has approved and issued Temporary Patio Permits for 37 businesses. Permits have been issued for 22 businesses in Old Town, five businesses in Virgil, and three businesses in St. Davids. Seven Temporary Patio Permits have been issued for businesses outside the urban area boundary. Eight of the Temporary Patio Permits issued in Old Town were for businesses located along Queen Street.

Based on changing public health regulations and COVID-19 recovery efforts, the Town is now considering the implications of establishing a permanent Seasonal Patio Program that will meet the goals and objectives of the Town post-pandemic. In line with the requirements of the AGCO, a Seasonal Patio Program would permit temporary patios for eight (8) months per calendar year.

5.1 Town Department Review

Planning staff has engaged in comprehensive consultation with internal departments as part of this review, including Community and Development Services (Planning and Building), Corporate Services (Clerks and Finance), Operations (Roads, Transportation, Engineering and Parks), By-law, Administration, and Fire and Emergency Services. These internal departments were consulted regarding requirements for a future permanent program for Seasonal Patios.

Staff have also consulted with the Town's Urban Design Committee, Municipal Heritage Committee, and Joint Accessibility Committee to obtain feedback on the current Temporary Patio Program Minimum Design Standards. Detailed feedback and preliminary recommendations and requirements from Town Departments and Committees for a future permanent Seasonal Patio Program are included below:

| Feedback Received on Current Program | Preliminary Recommendations, Improvements and Requirements |
|--|---|
| <p>Tourism and Economic Development</p> <ul style="list-style-type: none"> • Temporary patios offer support to local food and drink establishments to enhance patron experience, increase revenue, and remain competitive with other local area municipalities. • The continuation of temporary patios has allowed food and drink establishments to increase capacity, and has been well-received by business owners, residents and visitors. | <ul style="list-style-type: none"> • Continuation of permissions for temporary patios, subject to revised requirements and processes to ensure good patio design. |
| <p>Zoning and Policy Requirements</p> <ul style="list-style-type: none"> • Staff reviewed the Town's Official Plan and both Zoning By-law 4316-09 and 500A-74 related to patio permissions. The current Temporary Patio Program permits patios both inside and outside of the urban area boundary. • For patios in the rural area, permitting a patio can result in an increase in hospitality space. The Town's Official Plan and Zoning By-law limits the amount of land that can be occupied by a hospitality use through a site-specific Zoning By-law. | <ul style="list-style-type: none"> • Remove permissions for temporary patios outside of the urban area boundary. Town Staff do not recommend that temporary seasonal patios outside of the urban area boundary continue. • Require Town-initiated amendment to Zoning By-law 4316-09, as amended, to amend the requirements for patios for food and drink establishments (or other hospitality area provisions) in urban areas to allow for seasonal patios per the requirements of the program. This process |

| Feedback Received on Current Program | Preliminary Recommendations, Improvements and Requirements |
|--|---|
| <p>Permitting temporary patios on lands outside of the urban area boundary will conflict with site-specific established policies for each property. Outside of the urban area boundary, only Estate Wineries are permitted to have hospitality space. Farm wineries are not eligible for hospitality space. A review of the hospitality space and area is completed at the time of a Zoning By-law Amendment and Site Plan approval.</p> <ul style="list-style-type: none"> For patios in the urban area, Zoning By-law 4316-09, as amended, contains provisions in Section 6.36 related to Outdoor Patio Restaurants, including limiting the capacity of the area, location of the patio, height, and parking requirements. The provisions of Section 6.36 will require updating to reflect the minimum design standards and associated operating requirements, should Council implement a Seasonal Patio Program. | <p>will require an Open House and Public Meeting.</p> <ul style="list-style-type: none"> Review Town Official Plan policies regarding for lands within the urban area, to determine any revisions required for patios for food and drink establishments (or other hospitality area provisions). |
| <p>Enforcement and Inspection</p> <ul style="list-style-type: none"> The current Temporary Patio Program does not include an enforcement component. Town staff are unable to enforce the adjustment or removal of patios to be in compliance with the issued Permit and requirements of the Program. Patios are not inspected upon installation or removal. The current Temporary Patio Program does not include a maintenance component. There are no Town requirements to maintain storm maintenance holes, and/or clear debris below or around the patios, which may result in impacts to the stormwater management system and unsightly debris. | <ul style="list-style-type: none"> Require the creation of an enforcement component, to inspect patios upon set-up and removal, and on a complaint basis. Require additional staff complement in By-law to ensure enforcement and inspections can be completed. Establish regular maintenance requirements, to be implemented throughout the duration of the Patio Permit and by way of an enforcement component. The Town is a participant in the “Ontario Clean Waters” and “Yellowfish” programs which ensure that nothing but storm water enters the Town’s storm sewer system; need to control how patio floors are cleaned, ensure that no slops or other liquids are discharged onto the road via the patio, and ensure that the space under patios is regularly cleaned. |

| Feedback Received on Current Program | Preliminary Recommendations, Improvements and Requirements |
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| <p>Application Requirements</p> <ul style="list-style-type: none"> • The current Temporary Patio Program application requires the submission of a site plan, floor plan and interior layout. The applications received consistently do not provide adequate information/detail; including information regarding occupancy, washroom facilities, accurate drawings/plans (to scale) of the property to understand the location of the patio, and proposed tents. Additional site information would be required for inclusion in the application submission (e.g., requirements for parking, signage, landscaping, stormwater management). • The current Program has a rolling intake date for applications. Applications for an 8-month Patio Permit can be made at any time throughout the year. • The current Program does not have a standard timeline to issue a Permit, which results in different timelines for the issuance of Patio Permits. • The current Temporary Patio Program is open to all food and drink establishments throughout the Town and has resulted in increased occupancy for businesses. As restrictions for indoor dining lifted, the Program was not adjusted to reflect a requirement for a maximum amount of seating on a patio in comparison to the indoor occupancy of the business. | <ul style="list-style-type: none"> • Require the creation of an Applicant Guide, available on the Town's website, which includes information to inform application submission. • Require the provision of a Site Plan process (details to be included in Applicant Guide), to be included in Planning files and Patio Permit records to ensure compliance with applicable requirements. • Require the establishment of intake date(s), to provide greater consistency in patio set-up and removal, ensure removal for the winter months, and allow for Staff prioritization and shifting of job duties. • Require the establishment of a standard timeline to issue Temporary Patio Permits. The timeline to issue Patio Permits may require up to 6 weeks for review, and a minimum of 4 weeks. • Implement provisions to limit the size and capacity of the temporary patios based on the occupancy of the food and/or drink establishment (e.g. 25% of the indoor capacity). |
| <p>Insurance</p> <ul style="list-style-type: none"> • The Town's current Temporary Patio Program requires that patios fully or partially on Town property provide a Certificate of Insurance, for the duration of the Permit, in the amount of \$5 million listing the Town as an additional insurer. There are no insurance requirements for patios fully on private property. | <ul style="list-style-type: none"> • Maintain existing insurance requirements for patios fully or partially on Town property. • Implement additional insurance requirements for patios located wholly on private property. |

| Feedback Received on Current Program | Preliminary Recommendations, Improvements and Requirements |
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| <p>Fees</p> <ul style="list-style-type: none"> • The Town's current Temporary Patio Program does not require fees for Permit issuance, Staff review, or the occupancy of municipal parking stalls. The Temporary Patio Program does not provide a source of revenue or cost recovery for the Town. Town Staff spend an average of four (4) hours reviewing and issuing Temporary Patio Permits. • In previous years, a single patio may occupy as many as two (2) municipal parking stalls. If applying the Town's 2023 cash-in-lieu of parking fee, the Town loses \$65,988 per parking stall occupied by a patio. If applying the hourly parking rate, for 10 hours per day for the duration of eight (8) months, the Town loses \$12,250 per parking stall on Queen Street, and \$10,120 for all other areas. | <ul style="list-style-type: none"> • Establish an annual fee requirement to review and process Permits. For 2023, staff time has been tracked for permit review to determine a fee based on cost recovery. This fee may range from \$300 to \$450 depending on the area and number of staff to review (i.e., inclusion of Heritage review). Consideration for reduced fees may be given when reviewing Patio Permit renewals. • Require that temporary patios apply for an encroachment permit, with a current fee of \$100. • Establish fee requirements for temporary patios occupying municipal parking stalls based on the cash-in-lieu rate, the hourly parking rate, or a portion of the hourly parking rate. Council will need to provide direction. |
| <p>Location of Patios</p> <ul style="list-style-type: none"> • The current Temporary Patio Program permits patios to encroach in front of an adjacent building or property wholly or partially if the patio operator cannot accommodate the patio on their property or frontage. This encroachment has been permitted provided that authorization of the adjacent landowner is submitted. No standard form has been created to permit the encroachment. Changes in ownership could impact historic permissions. • The current Temporary Patio Program does not have established setbacks for patios from intersections, or provisions related to sight lines. This has resulted in concerns regarding the location of some patios in proximity to intersections and impacts to sight lines for vehicles and pedestrians. • Consideration needs to be given to temporary patios which have occupied parking spaces, and the impact on the | <ul style="list-style-type: none"> • Create a template agreement for adjacent property owners to sign if they will permit a patio along their frontage. • Establish maximum encroachment permissions for adjacent businesses, and minimum portion of the temporary patio to be located within the frontage/side or rear yard of the patio operator. • Establish a requirement for businesses to apply for an annual temporary encroachment permit for the patio wholly or partially on Town lands. This would ensure that insurance is up-to-date, and any site-specific conditions on the placement of the patio are applied. An encroachment permit would also ensure that the Town boulevard impacted by the temporary patio is reinstated annually. • Establish minimum setbacks and maximum heights for patios from |

| Feedback Received on Current Program | Preliminary Recommendations, Improvements and Requirements |
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| <p>reduction of parking spaces in total in Old Town.</p> | <p>intersections and driveways and include this information in an Applicant Guide. Patios that are not able to meet a minimum setback from an intersection will not be permitted.</p> <ul style="list-style-type: none"> • Consider limiting temporary patios on Queen Street occupying parking spaces. • Restrict patios adjacent to accessible parking spaces, loading zones, cab stands or bus stops, or within the pavement or shoulder of identified “No Parking,” “No Standing” or “No Stopping” zones. |
| <p>Landscaping</p> <ul style="list-style-type: none"> • Under the current Temporary Patio Program, temporary patios may displace landscape features and encroach on Town-owned trees. Landscape design and streetscape components specifically along Queen Street may be impacted as a result of temporary patios. • Features that may be moved as a result of a temporary patio may include planters, barrels, hanging baskets, benches, floral displays, shrub and perennial gardens, and flower bed surrounds. | <ul style="list-style-type: none"> • Provide information in an Applicant Guide to advise that the relocation of landscaping and in-ground landscape features will be at the cost of the applicant, and subject to the approval of the Town Parks Supervisor. • Establish a standard intake date for Permit applications to ensure that landscaping and landscape features will not be altered between Victoria Day and Thanksgiving. |
| <p>Design and Materials</p> <ul style="list-style-type: none"> • The minimum design standards for the current Temporary Patio Program permit for some flexibility in the design of patios, materials, landscaping, and lighting. There is a desire to have more consistency in the design of the patios, to reduce impacts to the streetscape and enhance the public realm. | <ul style="list-style-type: none"> • Comprehensively review and revise the minimum design standards, including consistent and more stringent requirements for patio operators. Examples of standards could include a requirement for plantings on all patios, consistent umbrella colours, lighting specifications, signage requirements, similar materials for patios. All temporary patios would be subject to these requirements. • Engage the Municipal Heritage Committee and Urban Design Committee on revised design standards. • Provide design standards in the Applicant Guide. |

| Feedback Received on Current Program | Preliminary Recommendations, Improvements and Requirements |
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| <p>Accessibility</p> <ul style="list-style-type: none"> • Current minimum design standards include a provision related to menu signage on patios, limiting the size of the sign to 0.2 metres squared. | <ul style="list-style-type: none"> • Provide guidance in the Applicant Guide on minimum font size (i.e. large print) and braille requirements for menu signage, requirements for accessible seating areas/tables, including designating tables with an accessible sign with braille. • Incorporate requirements for pedestrian traffic and impacts; patios are not to impede normal pedestrian traffic on the sidewalk passing the establishment. • Establish requirements for a ramp for mobility devices if the patio is not flush with the street or sidewalk. |
| <p>Monitoring</p> <ul style="list-style-type: none"> • The current Temporary Patio Program has not been subject to annual monitoring to understand impacts of permitting temporary patios, their impacts to the streetscape, and/or ways in which the Program may be enhanced. | <ul style="list-style-type: none"> • Establish an internal monitoring program which regular review of the Program to determine if any adjustments are needed. The monitoring may result in requirements to update and refine the Program and minimum design standards. Staff will report back to Council annually on the results of the monitoring program. |

In addition to the information provided in the above table, Town Staff has provided further context to a few key areas which will require consideration, including agricultural policies and directions, fees, and timelines, as noted below:

5.1.1 Agricultural Policies and Directions

Since 2020, the Town has issued Temporary Patio Permits for seven (7) wineries outside of the urban area boundary. Provincial, Regional and Town Planning policies permit limited on-farm diversification uses within the agricultural area. Diversification uses include hospitality uses, which would include a patio to service the existing drink establishment. Typical hospitality uses within the Town's agricultural area include restaurants, outdoor eating spaces and structures, and hospitality rooms (i.e., meeting space, banquet hall, conference area). Per the guidance at the Provincial and Regional level, diversification uses are to be limited to a maximum of 2% of the area of the subject property. The Town's Official Plan and Zoning By-law permit hospitality uses associated with Estate Wineries only, limited to a maximum total floor area of 139.3 square metres per use. A maximum floor area of 400 square metres may be occupied by all hospitality uses for a site, including hospitality patios. Estate Wineries are subject to site-specific Zoning By-law Amendment applications to regulate and delineate the size of a hospitality use; each Estate Winery in the Town may have its own specific set of provisions and requirements.

Permitting additional patio space within the agricultural area would result in an increase to the hospitality area, and may conflict with existing site-specific provisions reflecting Provincial, Regional and Town Planning policy direction and objectives. The location of patios also requires careful consideration to ensure appropriate setbacks are met from the agricultural use to avoid trespass or destruction of the crop, or impact agricultural production.

Further, lands outside of the urban area boundary are serviced by way of a private septic system, which has capacity for a specific use and occupancy load. Permitting increased occupancy may result in repercussions related to private servicing systems.

For these reasons, Town Staff recommend that a future Seasonal Patio Program only permit for temporary patios within the urban area boundary. It is recommended that businesses outside of the urban area, wanting a temporary patio, be subject to a Zoning By-law Amendment and associated Site Plan Approval process.

5.1.2 Fees

Currently, patio operators do not pay an application fee, permit fee, or encroachment fee. No fee has been charged for the Temporary Patio Program since its introduction in 2020.

Town Staff from all departments review the permit requests relative to their applicable requirements; this results in an average of 4.0 hours, total, of Staff time spent reviewing each application. Additional time is taken to review applications within the Queen-Picton Heritage Conservation District. For applications outside of the Heritage Conservation District, a fee of approximately \$300 would be required to cover Staff time for review. For applications within the Heritage Conservation District, a fee of approximately \$450 would be required to cover Staff time for review.

Currently, patio operators are not required to apply for an encroachment permit when using Town-owned lands. As provided in the table above, Town Staff recommend that applicants be required to apply for an encroachment permit, should a Seasonal Patio Program be approved. An encroachment permit is \$100 in the Town's current fee schedule.

The current Temporary Patio Program permits for patios to occupy municipal parking stalls. Patios have previously occupied 1 to 2 parking spaces total, resulting in a maximum of 4 parking spaces along Queen Street currently being occupied by temporary patios. If applying hourly parking rates, for 10 hours per day, along Queen Street, the Town loses approximately \$12,250 in parking revenue per space per season (April 1 to October 31). If applying hourly parking rates, for 10 hours per day, outside of Queen Street, the Town loses approximately \$10,120 in parking revenue per space per season (April 1 to October 31). Should Council wish to apply a cash-in-lieu of parking rate to temporary patios occupying municipal parking stalls, the 2023 rate is \$65,988 per space.

It is anticipated that more detailed information may be required as part of the application process through a formal site plan. The current Program permits for business owners and operators to provide a site plan drawn to scale; however, there are instances in which this information is inaccurate or provides too little detail to understand the location of the patio.

Staff recommend that site plans be submitted with applications for a future Seasonal Patio Program.

Minimum Design Standards may become more stringent for a Seasonal Patio Program. Feedback received from Town Staff, Committee Members, as well as members of the public, reiterated the need for stricter design standards and guidelines to create a cohesive street presence and to ensure that the streetscape is upheld in terms of design and heritage conservation practices. Enhanced Minimum Design Standards may require patio operators to invest more money in their patios, including changing materials that have already been used, providing additional landscaping, or replacing umbrellas, as examples.

Town Staff has conducted a review of applicable fees of other municipal temporary patio programs. The fee structure varies by municipality, and may be applied on an application basis, renewal basis, or per square metre/square foot basis. Based on a review of 17 municipalities, the average application fee is \$340. Some municipalities apply the application fee on a one-time basis and apply a renewal fee of approximately \$80. For patios located on municipal lands, most municipalities apply an additional fee based on size (i.e., amount per square metre per month) or location (i.e., one fee for a sidewalk, a higher fee for occupying a parking stall).

Specific to Niagara region, the following local area municipalities charge fees for temporary patios.

- Niagara Falls has an application fee of \$525, and applies a \$35 per square metre fee for patios occupying municipal property.
- St. Catharines has an application fee of \$393.15 for patios on City property, no cost is applied for patios on private property, and a fee of \$43.60 per square metre is applied for patios occupying municipal property.
- Welland patios occupying municipal property are subject to a \$150 occupancy permit fee, and no application fee is applied.
- Port Colborne has a lease agreement fee for occupying municipal land in the amount of \$300 annually is applied for patios occupying municipal property.
- Pelham applies a \$150 application fee for temporary patios on Town property, and no fee is applied for temporary patios on private property.

It is important to note that numerous municipalities are also currently conducting a review of their temporary patio programs, and fees to be implemented for such programs under review are unknown at this time.

5.1.3 Timelines

Should the Seasonal Patio Program operate commencing April 1, it is recommended that the intake date for applications occur by February 15, with Permit issuance to occur mid-March to allow patio operators time to set-up their spaces to start operating the patio on April 1. The 2023 Temporary Patio Program opened for applications on March 13, 2023. The current timeline for Permit issuance may range from 2 weeks to 6 weeks. The review time can be inconsistent based on information received and time required to review and request

revisions/resubmissions. It is recommended that a permit issuance timeline of four (4) weeks be established, subject to the implementation of an intake date.

5.2 Public Engagement

Community and Development Services and Customer Experience and Communications Staff worked closely together to roll out a comprehensive public engagement strategy to collect input on the review of the current Temporary Patio Program. The strategy included the following:

- Media Release
- Notices in local newspapers
- Instagram, Facebook, and Twitter Posts
- YouTube video
- Table Cards (restaurants)
- Town Ambassadors
- Circulation to ShopNOTL
- A Public Information Centre
- Join The Conversation webpage
- Public survey

The survey was established to assess public perspective and experiences related to the current Temporary Patio Program. Staff created an intuitive survey, which provided unique questions based on the respondent classification (e.g., if a resident, business owner or visitor). The survey required respondent registration on the Join the Conversation platform, and a total of 394 individual surveys were completed. The response for this survey is significant, as it is 144% greater of a response received than most other surveys conducted by the Town. An average of 161 surveys are completed for other Town initiatives.

The detailed results of the public engagement strategy can be found in **Appendix II** to this report and is summarized below. Survey respondents provided overwhelming support and positive responses to the Town's current Temporary Program, with a strong majority supporting the continuation of temporary patios.

- 76% of respondents are residents of Niagara-on-the-Lake
- 93% of respondents support the current Temporary Patio Program
- 63% of respondents have visited a patio at least six (6) times in Niagara-on-the-Lake in the last year
- Positive aspects of the Program including outdoor dining opportunities, vibrant atmosphere, and additional business revenue
- Concerns related to patios occupying parking spaces, traffic congestion, and the need for improved and cohesive patio design
- 93% of respondents are likely to recommend a patio in Niagara-on-the-Lake to others
- 100% of respondents that have businesses with patios reported positive impacts and revenue increases
- 78% of patio operators have hired additional staff as a result of the temporary expansion of their business

Respondents also indicated that they felt the patios strongly enhance the public realm and surrounding streetscape and contribute to the character of the surrounding area. A strong majority of respondents feel safe and comfortable on temporary patios and have not experienced accessibility concerns specific to the patio, under the current Temporary Patio Program.

From a patio operator perspective, 40% of respondents indicated they would be willing to pay an annual fee of \$201 to \$500 if the Town were to implement a Permit fee. Most patio operators (80%) also prefer the application of an annual fee, versus a fee per area structure. Should changes or enhancements to the minimum design standards be proposed, 65% of patio operators indicated this would not impact their interest in applying for future Seasonal Patio Permit.

A Public Information Centre was held at the Courthouse (26 Queen Street) from noon (12:00 p.m.) until 3:00 p.m. on Monday, August 28, 2023. Staff spoke with approximately 10 residents who attended the session and approximately 75 residents and visitors through informal discussion outside the Courthouse. Feedback on the Program was encouraged during the Public Information Centre, and all were requested to complete the survey.

The engagement activities indicated strong support for the Patio Program, with various insights and recommendations provided for improving the experience for both residents and visitors of Niagara-on-the-Lake. Respondent comments supported the creation of a permanent program for Seasonal Patios, standardizing rules, and aesthetics, and exploring pedestrian-only zones on Queen Street during the summer season.

The Town has also received comments from the Chamber of Commerce and Tourism NOTL, attached as **Appendix III** to this report, which indicate support for the continuation of temporary patios due to their positive impact on, amongst other items, vibrancy and street activity, visitor experience, job creation, and accessibility.

6. STRATEGIC PLAN

The content of this report supports the following Strategic Plan initiatives:

Pillar

1. Vibrant & Complete Community

Priority

1.2 Economic Development & Community Partnerships

Action

1.2 a) Economic Development

7. OPTIONS

7.1 **Option 1:** Council supports the creation of a permanent program for Seasonal Patios for the urban area, in principle, and direct Staff prepare to the requirements

of a permanent Seasonal Patio Program as outlined in this report.
(Recommended)

- 7.2 **Option 2:** Council supports the creation of a permanent program for Seasonal Patios for the urban and rural areas, in principle, and direct Staff prepare to the requirements of a Seasonal Patio Program as outlined in this report. This option is not recommended because patios in rural areas should be considered on a case-by-case basis, through a Zoning By-law Amendment process. (Not Recommended)
- 7.3 **Option 3:** Council supports the continuation of the current Temporary Patio Program. This option is not recommended because additional work is required, and feedback received indicates that the program needs to be updated based on current standards. (Not Recommended)
- 7.4 **Option 4:** Council cancels the Patio Program. This option is not recommended as the Program is supported based on the feedback received through numerous engagement opportunities. (Not Recommended)

8. FINANCIAL IMPLICATIONS

There are no direct financial implications to this report. If a Seasonal Patio Program is implemented, fees are recommended to be implemented for permits and other considerations (e.g., parking and encroachments). Potential fees related to permitting, encroachments, and parking costs are outlined in this report. Based on direction to be provided from Council through this report, financial impacts related to a Seasonal Patio Program will be provided through a future report should Council direct Staff to proceed as recommended.

9. ENVIRONMENTAL IMPLICATIONS

Not applicable; there are no direct environmental implications to this report.

10. COMMUNICATIONS

Upon Council's direction, Staff will continue to engage with the public as part of the review of the Program, including conducting focus groups. Results of the focus group session(s) will be provided through a future report should Council direct Staff to proceed as recommended. Staff will also consult with the Municipal Heritage Committee, Urban Design Committee, and Joint Accessibility Committee to refine the Minimum Design Standards.

11. CONCLUSION

The Town is committed to fostering economic prosperity, supporting local businesses, and maintaining the vibrancy of our community.

Staff recommend the Town establish a permanent Seasonal Patio Program to support, maintain and attract businesses. The continuation of Seasonal Patios will support a strong sense of place and streetscape, contribute to a vibrant and welcoming community, and ensure continued support for the tourism economy.

If Council endorses the report recommendation, Staff will proceed to create a permanent program for Seasonal Patios applicable to food and drink establishments within the urban area. Staff will prepare the requirements as outlined in this report and provide a future recommendation report to Council.

12. PREVIOUS REPORTS

- **CDS-23-005** – Seasonal Patio Program
- **CDS-21-033** – 2022 Temporary Patio Program
- **CDS-21-008** – 2021 Temporary Patio Program
- **CDS-20-013** – Temporary Patio Extensions

13. APPENDICES

- **Appendix I** – CDS-23-005 – Seasonal Patio Program Report
- **Appendix II** – Public Engagement Results (Survey, Public Information Centre)
- **Appendix III** – Correspondence from the Chamber of Commerce & Tourism NOTL

Respectfully submitted:

Prepared by:



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Recommended by:



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Town of Niagara-on-the-Lake

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REPORT #: CDS-23-005

COMMITTEE DATE: 2023-01-24

DUE IN COUNCIL: 2023-01-31

REPORT TO: COTW-General

SUBJECT: Seasonal Patio Program

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Council support the extension of the existing Temporary Patio Program for 2023;
- 1.2 Council support the creation of a permanent Seasonal Patio Program;
- 1.3 Staff be directed to bring forward a report and by-law to extend the Temporary Use By-laws until February 28, 2024, to allow time for review of a permanent Seasonal Patio Program; and
- 1.4 Staff be directed to review and provide a recommendation report regarding the Minimum Design Standards and processing of the permanent Seasonal Patio Program based on the information and direction contained in this report and in **Appendix II**.

1. EXECUTIVE SUMMARY

- The Town's Temporary Patio Program was established in 2020 to support local restaurants, bars and other food and drink establishments in their efforts to provide safe outdoor dining experiences during the COVID-19 pandemic.
- At the time, the Town created general guidelines for design and requirements for a Temporary Patio Program, intending to do a fulsome review later.
- Council extended the Temporary Patio Program in 2021 and 2022. As per the recommendations of Report No. CS-21-033 (2022 Temporary Patio Program), Town Staff were directed to provide a recommendation report regarding the potential continuation of the Patio Program beyond January 1, 2023.
- Staff has reviewed the existing Program and advise that a number of considerations and updates to the Temporary Patio Program will be required to support the continuation of Seasonal Patios on a long-term basis, as outlined in **Appendix II**.
- Staff recommend extending the existing Temporary Patio Program for 2023, undertaking a comprehensive review of the program, passing the requisite Temporary Use By-laws, and creating a permanent Seasonal Patio Program.
- Through these efforts, the Town is committed to supporting the tourism economy.

2. PURPOSE

The purpose of this report is to seek Council direction concerning the extension of the Town's existing Temporary Patio Program and Temporary Use By-law to permit the operation of outdoor restaurant patios in 2023.

As the Town recovers from COVID-19, it is anticipated that pre-pandemic levels of visitors will return to the Town. The extension of the Temporary Patio Program will allow the issuance of patio permits to attract customers and provide additional capacity at food and drink establishments that meet the requirements.

Planning Staff has reviewed the Temporary Patio Program and consulted with other Town Staff in various departments. This report summarizes that consultation and highlights areas that require further consideration for a permanent program should Council choose to proceed with the Program.

Staff are seeking Council's direction to investigate and return with a recommendation on a permanent Seasonal Patio Program.

3. BACKGROUND

In June 2020, the Alcohol and Gaming Commission of Ontario (AGCO) introduced legislation to allow restaurants and bars to temporarily extend outdoor patio spaces to accommodate patrons safely until January 1, 2021. This action was taken to support hospitality sector businesses and workers impacted by the COVID-19 pandemic. In November 2021, the AGCO extended the legislation to allow for the temporary physical extension of food and/or drink premises (i.e., temporary patios) until January 1, 2023.

In line with the AGCO permissions, the Town established the Temporary Patio Program in June 2020 (Staff Report CS-20-013, **Appendix I**) to support local restaurants, bars and other food and drink establishments in their efforts to provide safe outdoor dining experiences during the pandemic. These measures provided flexibility for the business community to attract customers and allowed space for physical distancing in accordance with the Province's COVID-19 Regulations. The 2020 Temporary Patio Program ended on January 1, 2021.

On April 26, 2021, Council approved Staff Report CS-21-008 (**Appendix I**). The purpose of that report was to refine and extend the Temporary Patio Program until January 1, 2022.

On November 22, 2021, Council approved Staff Report CS-21-033 (**Appendix I**). The purpose of that report was to seek direction from Council for ongoing business recovery support efforts related to temporarily permitting the expansion of outdoor restaurant patios. The Temporary Patio Program was extended until January 1, 2023, and Staff was directed to provide a recommendation report regarding the potential continuation of the Program beyond January 1, 2023.

On April 25, 2022, Council passed Temporary Use By-laws 4316EG-22 and 500XV-22, expiring February 28, 2023, permitting the extension of restaurant and bar patios onto public and private lands, subject to the Town's Temporary Patio Program Requirements, without application of

provisions of Zoning By-law 4316-09, as amended, and Zoning By-law 500A-74, as amended. The Temporary Use By-laws apply to all lands within the Town of Niagara-on-the-Lake, including all urban and rural/agricultural areas.

Current Temporary Patio Permit Program

The Town's Patio Permit application process began in 2020 with the program's initiation. A Temporary Patio Permit is required from the Town before an applicant establishes a temporary patio. Under the current Temporary Patio Program, patios may be placed adjacent to buildings, within municipal parking spaces, on privately owned parking lots/areas.

The permit process includes two streams: new applications for new patios and renewal applications for existing patios that previously held permits (beyond 2020).

New temporary patios require a new application. New applications have required the submission of an application form, a site plan and elevation plan, a summary of the proposed patio and use, a signed letter of endorsement from the owner, a Certificate of Insurance, and a traffic safety plan, as applicable.

A streamlined renewal application process was established for returning permit holders, provided there were no changes to their existing patio. If existing permit holders changed, altered, or expanded their patio spaces, they would be required to submit a new application.

As delegated by Council, Clerks Staff currently administer the Temporary Patio Program by receiving, circulating, processing and approving Temporary Patio Permits. In the case of a disagreement between the Clerk and the applicant, the matter is scheduled for Council's consideration at the earliest opportunity.

Once in receipt of the Permit, applicants have been permitted to proceed with placement. However, before occupancy of the patio, applicants have been required to arrange for a site visit and inspection by Town Staff to ensure conformity with the approved plan.

Temporary Patio Permits have not required a fee to process the application.

The Town considered the financial impact of the loss of parking revenue against occupying parking spaces for patios. For temporary patios located within municipal paid parking spots, the Town recommended, in report CS-20-013, implementing cost recovery using a 50% occupancy rate for all the \$3.75 parking spots (2020 Approved rate along Queen Street). This would have resulted in the collection of the following approximate fees:

- \$18.75 per day
- \$131.25 per week
- \$525.00 per month

The recommended daily occupancy rate fee was subsequently waived.

The Town established minimum design standards through the Temporary Patio Program, to which all temporary patios must adhere, to ensure patron and pedestrian safety. A table including all minimum design standards is included in **Appendix II**.

New Alcohol and Gaming Commission of Ontario Requirements

Effective January 1, 2023, the AGCO is allowing municipalities to approve temporary outdoor extensions of licensed premises. Previously, approval of all temporary outdoor extensions was under the authority of the AGCO Registrar. As part of these new permissions, municipalities will:

- have the authority to approve the temporary outdoor extension of licensed premises for up to a total of eight (8) months in a calendar year,
- be permitted to create their conditions for municipal approval, and
- be responsible for ensuring compliance with any conditions placed on the temporary outdoor extension approved by the municipality.

Owners of licensed premises will be required to notify the AGCO of any temporary outdoor patio permit extension of their operation approved by the Town as well as any associated conditions imposed. Licensees must continue to comply with the AGCO's requirements for permanent indoor and outdoor extensions and temporary indoor extensions. The Town does not coordinate compliance with AGCO; this is arranged through the applicant.

Review Process

Town Staff has reviewed existing Temporary Patio Programs and processes from municipalities across south-eastern Ontario as part of the preparation of this report. These municipalities include Hamilton, Kitchener, Toronto, Burlington, Prince Edward County, Milton, Niagara Falls, St. Catharines, and Guelph. Key factors that were considered include the duration of the programs, applicable fees and application requirements, design guidelines, temporary patio locations, a timeline for approval or issuance, and staff required to review each application. Many of these municipalities take a similar approach to temporary patios. Some successfully operated patio programs before the COVID-19 pandemic.

This background review, and provisions of these programs, may be considered to refine a permanent Seasonal Patio Program further and implement a best practices approach in the local context of the Town of Niagara-on-the-Lake.

4. DISCUSSION / ANALYSIS

The Temporary Patio Program has been well received by the business community, residents, and visitors. The program allowed businesses the opportunity to operate through COVID-19 restrictions and stimulate the local economy while maintaining public safety.

Since 2020, the Town has approved and issued Temporary Patio Permits for 33 businesses. Permits have been issued for 18 businesses in Old Town, three businesses in Virgil, and three businesses in St. Davids. Nine Temporary Patio Permits have been issued for businesses outside the urban area boundary. **Appendix III** details the locations where Temporary Patio Permits have been issued.

Based on changing public health regulations and COVID-19 recovery efforts, the Town is now considering the implications of establishing a permanent program that will meet the goals and objectives of the Town post-pandemic.

Key internal departments have been consulted as part of this initial Program review, including Community and Development Services (Planning and Building), Corporate Services (Clerks and Finance), Operations, and Fire and Emergency Services. Comments from each Department have generally supported the continuation of a patio program, subject to investigation of certain aspects and interests.

Generally, items for review are noted below:

Community and Development Services

- Zoning By-laws will need to be thoroughly reviewed based on the outcome and direction of the Seasonal Patio Program. This review should consider the implications of parking reductions and an increase in hospitality areas related to the provisions of the applicable By-law. Further, Seasonal Patios outside the urban area should not take active agricultural land out of production and should not establish a permanent patio area on the property.
- In alignment with the provisions of Section 6.36 in Zoning By-law 4316-09, as amended, Temporary Patios are currently only permitted between March 1 and October 31 annually, whereas the AGCO allows for Local Area Municipalities to issue a temporary patio permit for up to 8 months regardless of the months. Coordination is needed.
- Town Staff will consult with the Urban Design Committee and Municipal Heritage Committee to assist with refining the Minimum Design Standards. The outcome of this consultation may also require further consideration in the Zoning By-law.
- The additional capacity of the restaurants will require review in accordance with the Ontario Building Code; submission requirements for the application may need to be updated.

Corporate Services

- The occupancy of municipal parking stalls for Seasonal Patios should be reviewed to determine the financial impacts on the Town as a result of lost parking revenue. Part of this review may result in the need to apply a daily occupancy fee rate, or cash-in-lieu of parking, for patios occupying municipal parking stalls and required private parking areas/lots.
- The internal process for receiving, circulating, and approving Permits will be reviewed to identify areas of improvement or efficiencies in the review process. It is recommended that the scope and identification of Town Staff positions for permit review be established through the review of the Seasonal Patio Program.
- Consideration of a processing/review fee.

Operations

- Staff will look to implement guidance to require that seasonal patios are only located on or abutting lands of the business (food and/or drink establishment) they are serving.
- Seasonal patios located within Town-owned land should not impede the use of these lands. Staff will need to ensure that any encroachment for private use within Town

property (e.g., sidewalk and/or right of way) is suitably addressed to remove liability from the Town.

- Review insurance requirements for patios to ensure adequacy.
- Seasonal patios located within municipal parking stalls will result in a loss of parking, temporarily, to an area. Impacts on parking will be further reviewed to consider the feasibility of occupying parking stalls, parking requirements and any potential impacts beyond the patio's location.

Accessibility

- The Minimum Design Standards will be reviewed in comparison with *The Accessibility for Ontarians with Disabilities Act (AODA)* and the Outdoor Public Use Eating Areas (Section 80.16 and 80.17) of the Integrated Accessibility Standards Regulations (O. Reg. 191/11) for compliance.

Further review with applicable Town Departments will be required should Council wish to continue with a permanent Seasonal Patio Program. Detailed items for review, including the applicable Department, can be found in **Appendix II**.

Temporary Use By-law

As noted above, the Town passed Temporary Use By-laws on April 25, 2022, to allow the Temporary Patio Program to operate until February 28, 2023, as well as provide an opportunity for Staff to return to Council with a review of the Program. The Temporary Use By-law provides relief from applicable Town Zoning provisions, thereby allowing the Temporary Patio Program to exist and operate.

If Council wishes to proceed with a temporary patio program for 2023, it will need to extend the Temporary Use By-law. The *Planning Act* allows Councils to extend Temporary Use By-laws for up to 3 years following its initial introduction. In this case, Staff are recommending that the Temporary Use By-law be extended for one year to allow review and implementation of requirements to establish the permanent Program. In the future, the Town Zoning provisions will require revision to allow for the continued use of seasonal patios without needing Temporary Use By-laws.

5. STRATEGIC PLAN

The content of this report supports the following Strategic Plan initiatives:

Pillar(s)

1. Protect Distinctive Community Assets

Objective(s)

- 1.3 Recognize the importance of tourism in Niagara-on-the-Lake

6. OPTIONS

- 6.1 **Option 1:** Council support the extension of the existing Temporary Patio Program, direct Staff to extend the Temporary Use By-laws, and conduct a comprehensive review of the Patio Program to refine the submission process and requirements for

a permanent Seasonal Patio Program. **(Recommended)**

- 6.2 **Option 2:** Council support the extension of the existing Temporary Patio Program and direct Staff to extend the associated Temporary Use By-laws without reviewing or revising the Program submission process and/or requirements. A zoning review would still be required for this option should the patio program extend beyond the temporary use by-law expiration. **(Not Recommended)**
- 6.3 **Option 3:** Council support the extension of the Temporary Patio Program and direct Staff to extend the associated Temporary Use By-law for temporary patios within the Urban Area only, and direct Staff to conduct a comprehensive review of the Program to refine the submission process and requirements. **(Not Recommended)**
- 6.4 **Option 4:** Council does not support the permanent Seasonal Patio Program extension and does not direct Staff to extend the associated Temporary Use By-laws, thereby eliminating the Seasonal Patio Program. **(Not Recommended)**

7. FINANCIAL IMPLICATIONS

There are no direct financial implications associated with this report. Town Staff will need to review the current program to assess whether fees will be implemented for future Seasonal Patio Permits and implications on other revenue sources (e.g., parking) and staffing resources. Financial impacts related to this review will be provided through a future report should Council direct staff to proceed as recommended.

It is expected that due to the high number of touchpoints within the organization, a fee would need to be implemented to offset additional staff resources in the future. Based on similar programs requiring zoning reviews, site inspections, and coordination of permits across multiple departments, it may cost up to \$50,000 in staff resources. This is based on estimated staffing costs of \$1,200-\$1,500 per permit and 15-20 hours of processing time across various departments.

8. ENVIRONMENTAL IMPLICATIONS

There are no direct environmental implications to this report.

9. COMMUNICATIONS

Upon Council's direction, communication regarding the comprehensive review of this program will be provided to businesses through the Town's website and social media channels. Letters will also be sent to existing Patio Permit holders. Additionally, Staff will investigate other opportunities to engage through the review.

10. CONCLUSION

The Town is committed to fostering economic prosperity and assisting local businesses with their recovery efforts. Continuing to permit the temporary expansion of outdoor restaurant patios on public sidewalks, parking stalls, and private property will assist in this objective.

Staff are now seeking direction from Council to determine if there is a desire to proceed with a permanent Seasonal Patio Program. Staff recommend a comprehensive review of the current

Temporary Patio Program, including its timing, processes, requirements, and standards, to ensure that all Town requirements and interests are addressed and satisfied.

Further to this initial review, it will be important to monitor the Seasonal Patio Program annually, as changes to the Program may be necessary based on opportunities, challenges, and the changing context and needs. A monitoring program will be recommended with any permanent program.

In conclusion, it is recommended that Council direct Staff to undertake a comprehensive review of this Program and pass the requisite Temporary Use By-laws to ensure that it continues to support the tourism economy, upholds public safety, and aligns with the interests and requirements of the Town.

11. PREVIOUS REPORTS

- **CS-20-013** – Temporary Patio Extensions
- **CS-21-008** – 2021 Temporary Patio Program
- **CS-21-033** – 2022 Temporary Patio Program

12. APPENDICES

- **Appendix I** – Previous Staff Reports re Temporary Patio Permits (CS-20-013, CS-21-008, CS-21-033)
- **Appendix II** – Minimum Design Standards
- **Appendix III** – Issued Temporary Patio Permit Locations

Respectfully submitted:

Prepared by:



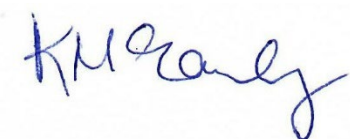
**Aimee Alderman, MCIP, RPP
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Recommended by:



**Rick Wilson, MCIP, RPP
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The Town of Niagara-On-The-Lake

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1593 Four Mile Creek Road
P.O. Box 100
Virgil, Ontario
L0S 1T0

Report: CS-20-013

Committee Date:

Due in Council:

June 22, 2020

Report To: Lord Mayor and Council
Subject: Temporary Patio Extensions

1. RECOMMENDATION

It is respectfully recommended:

- 1.1 As required by amendments to Regulation 719 under the Liquor Licence Act, the Council of The Corporation of the Town of Niagara-on-the-Lake supports the extension of existing liquor licences to temporary patios property throughout the Town the duration of 2020, provided businesses comply with the all requirements of the Town's Temporary Patio Permit Application; and
- 1.2 that the Council of The Corporation of the Town of Niagara-on-the-Lake delegate authority to the Town Clerk or designate, to consider Temporary Patio Permit applications, and when appropriate, to approve applications that, in the opinion of the Town Clerk, are to provide temporary measures to accommodate the expansion of businesses adjacent to their premise once they are permitted to welcome patrons on-site.

2. PURPOSE / PROPOSAL

The purpose of this report is to seek Council direction with respect to ongoing business recovery support efforts specifically as it relates to temporarily permitting the expansion of outdoor restaurant patios on public sidewalks, parking spaces, and private property. The goal of these temporary measures is to provide flexibility for the business community to attract customers and provide additional capacity that allows space for respectful physical distancing in accordance with provincial COVID-19 requirements.

3. BACKGROUND

As part of The Ontario government's recovery plan, restaurants and bars will be allowed to temporarily extend outdoor patio spaces to safely accommodate patrons and staff once licensed establishments are permitted to fully reopen for business. As a result of this change, licensed establishments may create a patio adjacent to their premise or increase the size of their patio once they are permitted to allow patrons on-site. This temporary measure will allow the public to safely enjoy service that meets physical distancing requirements and other public health guidelines.

While the Alcohol and Gaming Commission of Ontario (AGCO) will not require licensees to apply or pay a fee for these temporary extensions, licensed establishments must ensure they have municipal approval and meet all other applicable requirements. Liquor Sales Licensees may temporarily increase the size of their patios or add a new patio once they are again permitted to welcome patrons on-site and until January 1, 2021, provided that the Town does not object and all other applicable requirements are met. Currently, the Town is proposing that these temporary patios be permitted until October 31, 2020.

Flexibility with the use of areas that can support the creation of gathering spaces for people while also providing capacity for physical distancing is crucial for the successful restart of business operations throughout the Town. In particular, the ability for businesses to introduce extended patios over public sidewalks and parking areas as well as on private land will facilitate the ability to expand a retail/service area's footprint to provide the additional area to meet physical distancing requirements while providing sufficient increased capacity to maintain successful businesses.

Establishments that have pre-existing patios do not require any additional approvals from the Municipality, they may open and operate beginning June 19 at 12:00 a.m. (Stage 2), provided they meet physical distancing requirements and other public health guidelines.

4. DISCUSSION / ANALYSIS

This initiative proposes the use of a newly designed application procedure to process requests for temporary expansions to patios. Staff recommend this temporary approach in order to respond adequately to the high volume of requests that are anticipated. The process involves review and approval from all departments before permits are issued.

The applicants will be required to complete an application form which will also include:

- Site plan and an elevation plans, both to scale, of the proposed expansion areas. The plan must indicate the construction materials to be used, structural details, minimum distances to hydrants, boulevard trees, parking meters, intersections, and any other pertinent features.
- A summary of the proposed Patio, its use, whether occupancy will be increased, a description of the furniture, how any safety concerns are being addressed, and expected benefits for the owner and the general public.
- A signed letter of endorsement from the owner, if applicable.
- Certificate of Insurance, for the duration of the temporary expansion, in the amount of \$5 million listing the Town as additional insured for patios proposing to use municipal property.

The application process will not include any fees for processing the application and staff will make their best effort to process applications in a timely manner. In order to provide permits in a timely manner, staff are requesting temporary delegated authority to

approve these requests should they meet all requirements.

The Application Process:

Applicants will be required to review the Town's Temporary Patio Permit Application Form to determine the necessary requirements for additional documentation such as plans, drawings, insurance, and approval letters, etc. Once they have all pertinent information they will prepare plans and drawings of the proposed patio expansion area in accordance with the Town's design minimum standards, safety, and barrier-free design requirements. They will then complete the online Temporary Patio Permit Application Form. Once submitted applicants will receive a confirmation e-mail once the application has been successfully submitted. Upon submission of a completed Temporary Patio Permit Application Form, applicants may immediately commence the installation of a temporary patio in compliance with the minimum standards as outlined on the Town's website. Immediately upon completion the patio, and prior to occupancy of the patio, applicants must arrange for a site visit and inspection by Town Staff who will assess the patio layout for public safety and barrier-free compliance, and, will advise the applicant/owner on any adjustments to the patio design or location. Once all requirements have been met to the satisfaction of Town Staff, a Temporary Patio Permit will be provided to the applicant.

Temporary Patio Installation/ Extension on Private Property

Extending temporary outdoor patio seating space can occur in a variety of ways. Temporary patio installations on privately owned property are relatively easy to action compared to patios on municipally owned property. To extend or add an outdoor patio space, the owner would likely remove some parking spaces to install additional seating, as shown below in figure 1, and would ensure that the patio is constructed in accordance with all prevailing municipal guidelines and regulations. Further, all AGCO licensing requirements must be adhered to.



Figure 1: Private Property - Parking Lot Patio Expansion

Temporary Patio Installation/ Extension on Public Property

Many businesses, especially those located in densely built areas such as Queen Street, may not have the ability to accommodate patio's on their existing property. The Town has included in the application process the ability for businesses to request the use of Town owned lands for the purposes of the expansion or establishment of temporary outdoor patios. These may include patios which are partly on a combination of privately owned and municipally owned lands or municipally owned lands only. These types of applications may include, but are not limited to, the following examples:

Temporary Patios Occupying Parking Stalls

To facilitate a patio extension, businesses may request the use of municipal parking stalls. In so doing, parking spaces would be closed, and the design of the patio may only include the parking stalls provided they meet all the required minimum design standards expressed by the Town. The Town will request additional safety measures to ensure the safety of the patrons, such as:

- Barrier-free access and egress must not be compromised.
- The deck (floor structure) must have a flush transition at the sidewalk and curb to permit easy access and avoid tripping hazards.
- The sub-structure must accommodate the crown of the road and provide a level surface for the deck (floor structure).
- The deck must be constructed of a slip-resistant surface.
- The patio must not interfere with proper drainage of the roadway (curbs/catch basins in the immediate area must be free of obstructions).
- Any gates must swing into the patio space and not obstruct the sidewalk or street.
- The patio should not interfere with the ability of first responders to access any buildings.
- The design is to include fencing to define the space.

- Patios must have vertical elements that make them visible to traffic, such as flexible posts, bollards, or landscape planters, and include reflective elements so as to be visible by traffic at night.
- Railings and vertical elements should be a minimum of 0.91 metres (36") and no higher than 1.07 metres (42") in height.
- The temporary installations must provide a minimum of 0.3 metres (12") from the travelled portion of the roadway.
- Lighting will be subject to review and will be designed and installed in such a way as to not create a visual or physical distraction to travelling public on the sidewalk or roadway.
- Tables shall not exceed a height of 0.865 metres (34") above the finished floor of a patio (deck).
- The patio should maintain that a minimum width of 4.5 m from the edge of the patio / to the street centerline.
- A minimum sidewalk width of 2.4 m should be maintained where possible.
- Additionally, when required, the Town may install temporary barriers/ bollards to ensure the safety of patrons on the patio.



Figure 2: On Street Patio Example



Figure 3: On Street/ Sidewalk Example

This type of patio is not recommended because while pedestrians may not be displaced, diners would be placed in close proximity to the roadway and vehicular traffic. Additionally, servers would be required to regularly cross the public sidewalk to serve guests. Public safety is paramount and so Staff consider sidewalk patios, including a pedestrian by-pass, to be the preferred approach for the installation of temporary patios on municipal property.

As a result of these temporary patios occupying municipal parking stalls, there will be a financial impact to the Town through the loss of parking revenue. Staff are proposing imposing a fee to occupy these spaces at a 50% daily occupancy rate. This fee is explained in more detail under Section 7: Financial Implications.

Temporary Patios Occupying Municipal Sidewalks

To facilitate a patio extension, businesses may request the use of municipal sidewalks. In doing so, the right of way for pedestrians would be altered, requiring their displacement onto a newly erected, temporary pedestrian walkway. The pedestrian walkway would encroach on existing parking spaces and would thus be located adjacent to the road with pedestrians separated from vehicular traffic by a safety barrier. Restaurants and bars would be permitted to expand their patio onto the side-walk. See figure 4 and 5 below for reference. To ensure safe and accessible travel for pedestrians, the Municipality would close parking spaces immediately adjacent to the patio, build accessible ramps that allow pedestrians to by-pass the patio to and from the sidewalk into the closed parking spaces and erect safety barriers to separate the closed parking

spaces from cars travelling on the street.



Figure 4: Pedestrian By-pass Concept Drawing



Figure 5: Pedestrian By-pass Example

As a result of these temporary patios occupying municipal parking stalls, there will be a

financial impact to the Town through the loss of parking revenue. Staff are proposing imposing a fee to occupy these spaces at a 50% daily occupancy rate. This fee is explained in more detail under Section 7: Financial Implications.

Patio Design Minimum Standards

For all temporary patios, the following minimum design standards are required, where applicable:

- Temporary patios shall only be permitted for existing restaurants, bars, and other food and drink establishments (e.g. wineries, breweries, and distilleries).
- Barrier-free access and egress must not be compromised.
- The deck (floor structure) must have a flush transition at the sidewalk and curb to permit easy access and avoid tripping hazards.
- The sub-structure must accommodate the crown of the road and provide a level surface for the deck (floor structure).
- The deck must be constructed of a slip-resistant surface.
- The patio must not interfere with proper drainage of the roadway (curbs/catch basins in the immediate area must be free of obstructions).
- Any gates must swing into the patio space and not obstruct the sidewalk or street.
- The patio should not interfere with the ability of first responders to access any buildings.
- The design is to include fencing to define the space.
- Decorative free-standing flower pots or planting boxes are encouraged to be included in any design.
- Patios must have vertical elements that make them visible to traffic, such as flexible posts, bollards, or landscape planters, and include reflective elements so as to be visible by traffic at night.
- Railings and vertical elements should be a minimum of 0.91 metres (36") and no higher than 1.07 metres (42") in height.
- No umbrellas or other treatments can extend into the sidewalk or travelled portion of the roadway.
- Cooking of food and drink preparation is not permitted on temporary patios.
- A minimum of 1.5m (5ft) clearance from fire department connections and hydrants must be maintained on a temporary patio.
- A fire extinguisher (minimum 2A-10BC) must be available within 15.2 m (50ft) of any part of the temporary patio.
- The temporary installations must provide a minimum of 0.3 metres (12") from the travelled portion of the roadway.
- Lighting will be subject to review and will be designed and installed in such a way as to not create a visual or physical distraction to travelling public on the sidewalk or roadway.
- Tables shall not exceed a height of 0.865 metres (34") above the finished floor of a patio (deck).
- The patio should maintain that a minimum width of 4.5 m from the edge of the patio / to the street centerline.
- A minimum sidewalk width of 2.4 m should be maintained where possible.

- Temporary patios must not extend in front of adjacent tenant spaces, exits, or beyond business frontage without written permission from affected adjacent property owners and tenants; this includes any overhanging elements.
- Required on-site parking may be used for a temporary patio. The required number of designated Accessible Parking Spaces must remain available for parking use and designated fire routes and sight triangles must be avoided. A reasonable number of standard parking spaces should be maintained to serve patrons.
- For non-licensed establishments, the capacity of the temporary patio shall not exceed the posted occupancy of the main building.
- For licenced establishments that do not have an existing licenced patio, the capacity of the temporary patio shall not exceed the posted occupancy of the indoor area indicated on your liquor licence or 1.11 m^2 (12.0 sqft) per person, whichever is the lessor.
- For licenced establishments that have an existing licenced patio, the capacity of the combined area of the existing and temporary patios shall not exceed the posted occupancy of the indoor area indicated on your liquor licence or 1.11 sq. m. (12.0 sq. ft.) per person, whichever is the lessor.
- If the patio includes the use of a tent or temporary, portable structure consistent with the content of the Ontario Building Code outlined in Subsection 3.14.1, the applicant will require a building permit if the tent meets any of the following requirements:
 - The tent exceeds an area of 60m^2 (645 sq. ft.).
 - A group of tents in aggregate area and are closer than 3m apart with a combined area of 60m^2 .
 - The tent is within 3m of an existing structure and exceeds an area of 60m^2
 - The structure is attached to a building.
- Any tent must meet the flame resistant rating requirements in CAN/ULC S-109-M and NFPA701-1977 -“Standard for Flame Tests of Flame-Resistant Fabrics and Films” and certification of this must be supplied to the Fire Department prior to occupancy.
- The occupancy load for a tent will be determined by the Town’s Fire Department and is subject to change dependent on the service of alcohol.
- A Heritage Permit is required for the installation or construction of any permanent buildings/structures/fixtures/signs/etc on any property designated under the Heritage Act, including all properties located within the Queen Picton Heritage Conservation District.
- Owners shall provide their liquor licence, if requested by any Municipal Officer.
- Any Officer of the Municipality is authorized to inspect all temporary patios and require adjustments to the patio in order to address compliance with these Guidelines.

5. STRATEGIC PLAN

N/A

6. OPTIONS

Private Property Only

Council may choose to direct staff to only approved applications which are able to accommodate the expansion on the property or adjacent private lands. This would help ensure the safety of the patrons and reduce the liability of the Town. However, many businesses especially in the higher density commercial areas, such as the Queen-Picton Historic District, would not be able to accommodate patios on their properties.

Municipally Built Fixtures

In certain municipalities, the municipality has extended requests for proposals for prefabricated installations for pop-up patios and pedestrian by-passes. Council may wish to direct staff to investigate this option further. The benefit of this option is that the structures are built to the standard set out in the request for proposal and are subjected to design by qualified engineers. However, this process could be quite lengthy and costly. There would also need to be direction to determine who would pay for the cost of the installation of the structures. Staff considered this approach but given that every day counts for these businesses, especially during the high volume season, it was determined that this process would not be in place soon enough to respond to the demand of the industry.

Fees

There is currently no fee for the application. Staff is proposing the collection of funds as a cost recovery measure for lost parking revenue for those applications requiring municipal paid parking spots. Council may provide direction to either increase, decrease, or remove the fee.

7. FINANCIAL IMPLICATIONS

There is currently no fee for the application. Staff is proposing the collection of funds as a cost recovery measure for lost parking revenue for those applications requiring municipal paid parking spots. The breakdown for the typical model for cost recovery on paid parking is based on 100% occupancy for the full day. In locations where the parking rate is \$3.75 an hour, for 10 hours the fee would be \$37.50 per day per spot. In locations where \$3.25 an hour, for 10 hours the fee would be \$32.50 per day per spot.

Staff are recommending that Council provide an exception in these circumstances by using a 50% occupancy rate using the \$3.75 rate for all locations. This would result in the following fees (approximate):

- \$18.75 per day
- \$131.25 per week
- \$525.00 per month

8. COMMUNICATIONS

The program has commenced in order to start processing applications as expediently as possible. Communication has been provided to businesses through the Town's website and social media accounts. Town staff have already accepted and processes a number of applications. Permits will be provided to all temporary patios that have been

approved through this process and will be posted to the public.

9. CONCLUSION

Town staff are committed to assisting local businesses with recovery efforts by providing creative solutions to permit the temporary expansion of outdoor restaurant patios on public sidewalks, parking spaces, and private property. It is recommended that these actions be supported by Council to provide flexibility for the business community to attract customers and provide additional capacity that allows space for respectful physical distancing in accordance with provincial COVID-19 requirements.

Respectfully submitted,



Peter Todd
Town Clerk



Kyle Freeborn
Director, Corporate Services (A)



Sheldon Randall
Chief Administrative Officer (I)



The Town of Niagara-On-The-Lake

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| | | | |
|-------------------|--|------------------------|-----------------------|
| Report: | CS-21-008 | Committee Date: | April 19, 2021 |
| | | Due in Council: | April 26, 2021 |
| Report To: | Corporate Services Advisory Committee | | |
| Subject: | 2021 Temporary Patio Program | | |

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Council approve the extension of the Temporary Patio Program throughout the Town until January 1, 2022; and
- 1.2 Council support the extension of existing liquor licenses to temporary patios throughout the Town until January 1, 2022, provided businesses comply with all requirements of the Town's Temporary Patio Permit Application and the Alcohol and Gaming Commission of Ontario (AGCO) through amendments to Regulation 719 (Licenses to Sell Liquor) of the *Liquor Licence Act* .

2. PURPOSE / PROPOSAL

The purpose of this report is to seek Council direction with respect to ongoing business support efforts as it relates to temporary permitting of the expansion of outdoor restaurant patios within the municipal right-of-way (public sidewalks, parking spaces), and private property. The goal of these temporary measures is to provide flexibility for the business community to attract customers and provide additional capacity that allows space for physical distancing in accordance with the Province's COVID-19 Regulations.

3. BACKGROUND

On June 22, 2020, Council approved Staff Report CS-20-013 (Appendix I). The purpose of that report was to seek direction from Council for ongoing business recovery support efforts as it relates to temporarily permitting the expansion of outdoor restaurant patios on public sidewalks, parking spaces, and private property. The goal of these measures was to provide flexibility for the business community to attract customers and provide additional capacity that allows space for physical distancing in accordance with the Province's COVID-19 Regulations.

The 2020 Temporary Patio initiative proposed the use of a newly designed application procedure to process requests for temporary expansions to patios. The process involved review and approval from all departments before permits were issued. The applicants were required to complete an application form, which also included:

- Site plan and elevation plans, to scale, of the proposed expansion areas. The plan must indicate the construction materials to be used, structural details, minimum distances to hydrants, boulevard trees, parking meters, intersections, and any other pertinent features.
- A summary of the proposed patio, its use, whether occupancy will be increased, a description of the furniture, how any safety concerns are being addressed, and expected benefits for the owner and the general public.
- A signed letter of endorsement from the owner, if applicable.
- Certificate of Insurance, for the duration of the temporary expansion, in the amount of \$5 million listing the Town of Niagara-on-the-Lake as additional insured for patios proposing to use municipal property.
- Applicants were also required to meet patio design requirements as detailed in Appendix II.

The 2020 Temporary Patio Program ended on January 1, 2021. The program was well received by the business community as a way to help keep businesses operating and stimulate the local economy while maintaining public safety. Keeping in line with these efforts, Council, at its meeting on January 25, 2021, passed a motion to allow the balance of temporary patios to remain constructed on the following conditions:

WHEREAS Staff have further reviewed the concern of the temporary patios installed on Town road allowances on Queen Street and the potential impact on winter control operations;

AND WHEREAS the removal of the patio at the intersection of Queen and Regent Streets, Staff are now less concerned with the remaining two patios and the ability to provide winter control on Queen Street;

AND WHEREAS staff has no concerns regarding the patios located on the municipal boulevard or private property;

AND WHEREAS there is still a reasonable potential for damage to the patios it would seem less likely to provide a large risk to pedestrians;

BE IT RESOLVED that Council direct staff to allow the balance of the patios to remain at this time temporarily, subject to each owner continuing to provide third party liability insurance naming the Town as an additionally insured party, and that the owners waive any responsibility of the Town should the patios becomes damaged;

AND FURTHER that the Municipal Heritage Committee (MHC) be consulted prior to April 2021.

Staff prepared a report to the March 9, 2021 Municipal Heritage Committee (MHC) meeting (attached as Appendix III) requesting the MHC provide comments on the parameters of the 2021 Temporary Patio Permit Program as it is expected the program would have impacts on heritage designated properties. On March 22, 2021, Council approved the MHC Meeting Minutes which recommended the following:

- 1.1 *The Municipal Heritage Committee provide comments on the parameters of the 2021 Temporary Patio Permit Program as it impacts heritage designated properties within the Queen-Picton Heritage Conservation District and any Part IV designated heritage properties; and*
- 1.2 *Council adopt the following program parameters for the 2021 Temporary Patio Permit Program as it impacts designated heritage properties:*
 - 1.2.1 *Patios be constructed of wood or metal rather than plastic;*
 - 1.2.2 *Patios be natural or stained wood or painted in a colour from the approved Niagara-on-the-Lake approved colour chart (or similar) to the satisfaction of the Director of Community and Development Services;*
 - 1.2.3 *Lighting on patios be simple in design, of a warm white light, that illumination be directed downward, and that no colour changing or flashing lighting is permitted to the satisfaction of the Director of Community and Development Services;*
 - 1.2.4 *Decorative free-standing flower pots or planting boxes are encouraged;*
 - 1.2.5 *No signage is permitted to be installed on the patio structure with the exception of one menu sign at a maximum size of 0.2 square metres in area;*
 - 1.2.6 *A Heritage Permit is required to be obtained by a property owner for the construction of any patio temporary or otherwise, which will result in soil disturbance or excavation, including the pouring of below-grade footings, or slab on grade foundations, or where any patio structure is proposed to be attached to an existing building or structure,*
 - 1.2.7 *Heritage Staff review and provide comments on all Temporary Patio Permit Program Applications; and*
 - 1.2.8 *That non-branded umbrellas be used exclusively. If shade is required then non-branded pergolas and umbrellas are used instead of tents.*

Additionally, at the March 22, 2021 Council meeting, Council referred the following recommendation from the March 9, 2021 Municipal Heritage Committee meeting to Staff for consideration:

- 1.2.9 *That Committee ask that Council continue to commit to the December 31, 2021 deadline and that pre-pandemic Queen streetscape conditions be reinstated.*

Under the Province's recovery plan, restaurants and bars were permitted to continue to temporarily extend outdoor patio spaces to safely accommodate patrons and Staff. Once establishments are permitted to fully reopen for business, licensed establishments may open a temporary patio adjacent to their premises or increase the size of their patio. This temporary measure will allow the public to safely enjoy service that meets physical distancing requirements and other public health guidelines.

The Alcohol and Gaming Commission of Ontario (AGCO) will not require licensees to apply or pay a fee for the temporary extension of existing liquor licences to permitted patios. Licensed establishments must ensure they have municipal approval and meet all other applicable requirements. Currently, the Town is proposing that these temporary patios be permitted until January 1, 2022.

Flexibility with the use of areas that can support the creation of gathering spaces for people while also providing capacity for physical distancing is crucial for the successful restart of business operations throughout the Town. In particular, the ability for businesses to introduce extended patios over public sidewalks and parking areas as well as on private land will facilitate the ability to expand a retail/service area's footprint to provide the additional area to meet physical distancing requirements while providing sufficient increased capacity to maintain successful businesses.

4. DISCUSSION / ANALYSIS

The temporary patio program has been designed with the objective of supporting Niagara-on-the-Lake businesses during their recovery efforts. Other goals include providing streamlined application processes that are easy, effective and efficient, providing customer service excellence, maintaining health and safety and minimizing impact on the heritage district.

With this in mind, there will be two streams for applications: **renewal applications** for existing patios and **new applications** for new patios.

All existing permit holders are able to submit a streamlined renewal application, provided there are no changes to their existing patio. If existing permit holders would like to alter or expand their existing patio spaces, they will be expected to submit a new application.

Applications for new temporary patios will follow the "new applications" process.

The 2021 application process intends on using the previously approved application procedure to process requests for temporary expansions to patios. The process involves review and approval from applicable departments and inspection of the patio before permits are issued.

The applicants will be required to complete an application form which will also include:

- Site plan and an elevation plan, both to scale, of the proposed expansion areas. The plan must indicate the construction materials to be used, structural details, minimum distances to hydrants, boulevard trees, parking meters, intersections, and any other pertinent features.
- A summary of the proposed Patio, its use, whether occupancy of the premises will be increased, a description of the furniture, how any safety concerns are being addressed, and expected benefits for the owner and the general public.

- A signed letter of endorsement from the owner, if applicable in the case of leased properties.
- A Certificate of Insurance, for the duration of the temporary patio expansion, in the amount of \$5 million listing the Town as additional insured for patios proposing to use municipal property.
- If there is any work taking place in the municipal right of way, the applicant must provide Staff with a traffic safety plan which clearly outlines the area of work and measures taken to promote traffic safety.
- Requirement to meet the revised design requirements as detailed in Appendix IV (changes are outlined in the highlighted text).

The application process will not include any fees for processing the application, and Staff will make their best effort to process applications as efficiently and effectively as possible. In order to provide permits in a timely manner, at the June 22, 2020 Council meeting, Staff were provided temporary delegated authority to approve these requests should they meet all requirements.

Deadline of Program

As requested by Council, Staff have considered the recommendation from MHC which suggested a deadline of the program for December 31, 2021. In 2020, the program had originally been approved to operate up until October 31, 2020. At the October 26, 2020 Council meeting, Council extended the deadline of permits for temporary patios until January 1, 2021. Staff have recommended that the program be extended to January 1, 2022 rather than December 31, 2021 in order to accommodate any businesses which plan to be opened for New Years Eve celebrations, (provided that provincial guidelines permit them to be open).

The Application Process

There will be two streams for applications: new applications and renewal applications. In order to expedite the approval of temporary patio permits, all existing permit holders are able to submit a renewal application, provided there are no changes to their existing patio. If existing permit holders would like to alter or expand their existing patio spaces, they will be expected to submit a new application.

Once in receipt of the Permit, applicants may proceed with construction; however, prior to occupancy of the patio, applicants must arrange for a site visit and inspection by Town Staff to ensure conformity with the approved plan.

Also, in order to minimize the processing time for applications, Council previously delegated approval authority to the Clerk rather than requiring requests to Council. Should any disagreement between the Clerk and an applicant arise concerning the sufficiency of an application, the matter will be scheduled for Council's consideration at the earliest opportunity.

All patios, including those approved under the previous 2020 Program, will be required to follow the process.

In support of businesses and Council's desire to encourage recovery efforts, Staff do not propose the imposition of any fee for the processing of the required application.

Through the application process our staff are committed to making every effort to enhance customer service, streamline processes, and support economic recovery while minimizing impact to the heritage district and ensuring all health and safety requirements are met.

5. Strategic Plan

- ☒ **Protect Distinctive Community Assets**
 - ☒ Preserve unique community elements
 - ☐ Close gap on capital investments
 - ☒ Recognize the importance of tourism in Niagara-on-the-Lake
 - ☐ Other
- ☐ **Deliver Smart Balanced Growth**
- ☐ **Create a Culture of Customer Service Excellence**
- ☐ **Excel in a Positive Workplace**
- ☐ **Strengthen 2-Way Communications**
- ☐ **Not Applicable**

6. OPTIONS

N/A

7. FINANCIAL IMPLICATIONS

Staff time and other Town resources will be required to review and administer applications as well as to inspect properties. At this time, Staff are not recommending a fee or cost recovery model.

8. COMMUNICATIONS

Communication will be provided to businesses through the Town's website and social media accounts. Permits will be provided to all temporary patios that have been approved through this process and will be posted to the public.

9. CONCLUSION

Town Staff are committed to assisting local businesses with recovery efforts by providing creative solutions to permit the temporary expansion of outdoor restaurant patios on public sidewalks, parking spaces, and private property. It is recommended that these actions be supported by Council to provide flexibility for the business community to attract customers and provide additional capacity that allows space for physical distancing in accordance with Provincial COVID-19 requirements.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Peter Todd', with a long horizontal flourish extending to the right.

Peter Todd
Town Clerk

A handwritten signature in blue ink, appearing to read 'Kyle Freeborn', with a long horizontal flourish extending to the right.

Kyle Freeborn, CPA, CMA
Director, Corporate Services

A handwritten signature in black ink, appearing to read 'M. Cluckie', with a long horizontal flourish extending to the right.

Marnie Cluckie, MS.LOD, B.ARCH, B.ES
Chief Administrative Officer

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Patio Design Minimum Standards

For all temporary patios, the following minimum design standards are required, where applicable:

- Temporary patios shall only be permitted for existing restaurants, bars, and other food and drink establishments (e.g. wineries, breweries, and distilleries).
- Barrier-free access and egress must not be compromised.
- The deck (floor structure) must have a flush transition at the sidewalk and curb to permit easy access and avoid tripping hazards.
- The sub-structure must accommodate the crown of the road and provide a level surface for the deck (floor structure).
- The deck must be constructed of a slip-resistant surface.
- The patio must not interfere with proper drainage of the roadway (curbs/catch basins in the immediate area must be free of obstructions).
- Any gates must swing into the patio space and not obstruct the sidewalk or street.
- The patio should not interfere with the ability of first responders to access any buildings.
- The design is to include fencing to define the space.
- Decorative free-standing flower pots or planting boxes are encouraged to be included in any design.
- Patios must have vertical elements that make them visible to traffic, such as flexible posts, bollards, or landscape planters, and include reflective elements so as to be visible by traffic at night.
- Railings and vertical elements should be a minimum of 0.91 metres (36") and no higher than 1.07 metres (42") in height.
- No umbrellas or other treatments can extend into the sidewalk or travelled portion of the roadway.
- Cooking of food and drink preparation is not permitted on temporary patios.
- A minimum of 1.5m (5ft) clearance from fire department connections and hydrants must be maintained on a temporary patio.
- A fire extinguisher (minimum 2A-10BC) must be available within 15.2 m (50ft) of any part of the temporary patio.
- The temporary installations must provide a minimum of 0.3 metres (12") from the travelled portion of the roadway.
- Lighting will be subject to review and will be designed and installed in such a way as to not create a visual or physical distraction to travelling public on the sidewalk or roadway.
- Tables shall not exceed a height of 0.865 metres (34") above the finished floor of a patio (deck).
- The patio should maintain that a minimum width of 4.5 m from the edge of the patio / to the street centerline.
- A minimum sidewalk width of 2.4 m should be maintained where possible.
- Temporary patios must not extend in front of adjacent tenant spaces, exits, or beyond business frontage without written permission from affected adjacent property owners and tenants; this includes any overhanging elements.

- Required on-site parking may be used for a temporary patio. The required number of designated Accessible Parking Spaces must remain available for parking use and designated fire routes and sight triangles must be avoided. A reasonable number of standard parking spaces should be maintained to serve patrons.
- For non-licensed establishments, the capacity of the temporary patio shall not exceed the posted occupancy of the main building.
- For licenced establishments that do not have an existing licenced patio, the capacity of the temporary patio shall not exceed the posted occupancy of the indoor area indicated on your liquor licence or 1.11 m². (12.0 sqft) per person, whichever is the lessor.
- For licenced establishments that have an existing licenced patio, the capacity of the combined area of the existing and temporary patios shall not exceed the posted occupancy of the indoor area indicated on your liquor licence or 1.11 sq. m. (12.0 sq. ft.) per person, whichever is the lessor.
- If the patio includes the use of a tent or temporary, portable structure consistent with the content of the Ontario Building Code outlined in Subsection 3.14.1, the applicant will require a building permit if the tent meets any of the following requirements:
 - The tent exceeds an area of 60m² (645 sq. ft.).
 - A group of tents in aggregate area and are closer than 3m apart with a combined area of 60m².
 - The tent is within 3m of an existing structure and exceeds an area of 60m²
 - The structure is attached to a building.
- Any tent must meet the flame resistant rating requirements in CAN/ULC S-109-M and NFPA701-1977 -“Standard for Flame Tests of Flame-Resistant Fabrics and Films” and certification of this must be supplied to the Fire Department prior to occupancy.
- The occupancy load for a tent will be determined by the Town’s Fire Department and is subject to change dependent on the service of alcohol.
- A Heritage Permit is required for the installation or construction of any permanent buildings/structures/fixtures/signs/etc on any property designated under the Heritage Act, including all properties located within the Queen Picton Heritage Conservation District.
- Owners shall provide their liquor licence, if requested by any Municipal Officer.
- Any Officer of the Municipality is authorized to inspect all temporary patios and require adjustments to the patio in order to address compliance with these Guidelines.
- Any Officer of the Municipality is authorized to inspect all temporary patios and require adjustments to the patio in order to address compliance with these Guidelines.



The Town of Niagara-On-The-Lake

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Report: MHC-21-010

Committee Date:

March 09, 2021

Report To: Municipal Heritage Committee
Subject: Request for Comments
Temporary Patio Permit Program

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 The Municipal Heritage Committee provide comments on the parameters of the 2021 Temporary Patio Permit Program as it impacts heritage designated properties within the Queen-Picton Heritage Conservation District and any Part IV designated heritage properties; and
- 1.2 Council adopt the following program parameters for the 2021 Temporary Patio Permit Program as it impacts designated heritage properties:
 - 1.2.1 Patios be constructed of wood or metal rather than plastic;
 - 1.2.2 Patios be natural or stained wood or painted in a colour from the approved Niagara-on-the-Lake approved colour chart (or similar) to the satisfaction of the Director of Community and Development Services;
 - 1.2.3 Lighting on patios be simple in design, of a warm white light, that illumination be directed downward, and that no colour changing or flashing lighting is permitted to the satisfaction of the Director of Community and Development Services;
 - 1.2.4 Decorative free-standing flower pots or planting boxes are encouraged;
 - 1.2.5 No signage is permitted to be installed on the patio structure with the exception of one menu sign at a maximum size of 0.2 square metres in area;
 - 1.2.6 A Heritage Permit is required to be obtained by a property owner for the construction of any patio temporary or otherwise, which will result in soil disturbance or excavation, including the pouring of below-grade footings, or slab on grade foundations, or where any patio structure is proposed to be attached to an existing building or structure; and
 - 1.2.7 Heritage Staff review and provide comments on all Temporary Patio

Permit Program Applications.

2. PURPOSE / PROPOSAL

The purpose of this report is to gain input from the Municipal Heritage Committee on recommended program parameters for the 2021 season Temporary Patio Permit Program. Specifically, the Committee is being asked for comments that would assist in mitigating potential impacts to cultural heritage resources within the Queen-Picton Heritage Conservation District (the "District") and individually designated properties.

3. BACKGROUND

On June 22, 2020, Council approved Staff Report CS-20-013 (**Appendix I**). The purpose of this report was to seek direction from Council with respect to ongoing business recovery support efforts specifically as it relates to temporarily permitting the expansion of outdoor restaurant patios on public sidewalks, parking spaces, and private property. The goal of these temporary measures was to provide flexibility for the business community to attract customers and provide additional capacity that allows space for physical distancing in accordance with provincial COVID-19 requirements.

This initiative proposed the use of a newly designed application procedure to process requests for temporary expansions to patios. The process involved review and approval from all departments before permits were issued. The applicants were required to complete an application form, which also included:

- Site plan and elevation plans, to scale, of the proposed expansion areas. The plan must indicate the construction materials to be used, structural details, minimum distances to hydrants, boulevard trees, parking meters, intersections, and any other pertinent features.
- A summary of the proposed patio, its use, whether occupancy will be increased, a description of the furniture, how any safety concerns are being addressed, and expected benefits for the owner and the general public.
- A signed letter of endorsement from the owner, if applicable.
- Certificate of Insurance, for the duration of the temporary expansion, in the amount of \$5 million listing the Town of Niagara-on-the-Lake as additional insured for patios proposing to use municipal property.

Applicants were required to meet patio design requirements as detailed in **Appendix II**.

The 2020 Temporary Patio Program ended on December 31, 2020. The program was well received by the business community as a way to help keep businesses operating and stimulate the local economy while maintaining public safety. Keeping in line with these efforts, Council, at its meeting on January 25, 2021, passed a motion to allow the balance of temporary patios to temporarily remain constructed as follows:

WHEREAS Staff have further reviewed the concern of the temporary patios installed on Town road allowances on Queen Street and the potential impact on winter control operations;

AND WHEREAS the removal of the patio at the intersection of Queen and Regent Streets, Staff are now less concerned with the remaining two patios and the ability to provide winter control on Queen Street;

AND WHEREAS staff has no concerns regarding the patios located on the municipal boulevard or private property;

AND WHEREAS there is still a reasonable potential for damage to the patios it would seem less likely to provide a large risk to pedestrians;

BE IT RESOLVED that Council direct staff to allow the balance of the patios to remain at this time temporarily, subject to each owner continuing to provide third party liability insurance naming the Town as an additionally insured party, and that the owners waive any responsibility of the Town should the patios becomes damaged;

AND FURTHER that the Municipal Heritage Committee (MHC) be consulted prior to April 2021.

At this time, Staff are requesting the Municipal Heritage Committee provide comments on the parameters of the 2021 Temporary Patio Permit Program as it impacts heritage designated properties within the Queen-Picton Heritage Conservation District and any Part IV designated heritage properties. Staff will include the comments and parameters in any recommended changes to the program for Council approval.

4. DISCUSSION / ANALYSIS

4.1 Ontario Heritage Act, R.S.O. 1990, c. O.18

As per the *Ontario Heritage Act* (the "OHA"), a Heritage Permit is required for permanent alterations within a Heritage Conservation District (Part V designated properties) and for any alterations to an individually (Part IV designated) property that is likely to impact the heritage attributes. For any proposed patios which are intended to be temporary structures (moveable, such as those within municipal parking spaces), no heritage permit is required. However, any proposed permanent structures with footings, slab on grade construction or which are tied into existing structures will require a Council approved Heritage Permit.

4.2 Queen-Picton Heritage Conservation District Plan, 1986

Staff have provided several recommendations to inform the parameters of the 2021 Temporary Patio Permit Program, which are informed by the objectives and policies of the Queen-Picton Heritage Conservation District Plan (the "District Plan"), Town

By-laws and OHA requirements for alterations to designated properties.

The District Plan provides policies for new buildings on vacant lots, but does not contemplate the construction of temporary patios. The following policies for new buildings have been utilized to guide staff several recommendations for the 2021 Temporary Patio Permit Program:

Colours - colours used through paint and materials shall be historically accurate colours, being of quiet, subtle, natural shades.

Materials - materials appropriate and typical of the heritage district shall be used with an emphasis on natural fabric such as brick, stone and wood as opposed to metals and plastics.

Staff are recommending that patios be either a natural or stained wood or painted in a colour from the Town's heritage approved colour chart, or similar, as deemed appropriate by the Director of Community and Development Services. The District Plan recommends that natural materials such as wood are used. Although metal is generally discouraged in the District Plan, Staff would support the use of metal for patio construction as the structures are a contemporary structure and should be designed to appear as contemporary structures. Plastic is not recommended to be utilized for patio construction.

Section 6A.7 of the District Plan sets out the policies for flower gardens, which includes flower beds, baskets and tubs. Flower gardens are recognized as a "significant and contributing feature" within the District, and are encouraged to remain simple in design. The previous Temporary Patio Program encouraged decorative free-standing flower pots and planting boxes on patio structures. Staff support the inclusion of flower pots and boxes, which softens the appearance of the otherwise utilitarian patio structures, and assists in blending the patios into the existing streetscape.

Section 6A.8 of the District Plan provides objectives on lighting in the District. The District Plan generally recommends a quiet, subtle lighting effect that is compatible with the historic ambience of the District. In consideration of this objective, Staff are recommending lighting on patios be simple in design, of a warm white light, that illumination be directed downward, and that no colour changing or flashing lighting is permitted to the satisfaction of the Director of Community and Development Services.

The objectives and policies for signage is provided in section 6A.9 of the District Plan. The District Plan objectives caution against sign clutter and recommend that signs are functional and complementary to the District. Staff have recommended that no signage is permitted to be installed on the patio structure, with the exception of one menu sign at a maximum size of 0.2 square metres in area, as regulated in the Town's Sign By-law 4586-12. Limiting signage to one menu sign at 0.2 square

metres in area per patio provides clear parameters for restaurant owners and limits sign clutter.

4.3 Provincial Policy Statement, 2020

The Provincial Policy Statement (PPS) provides the following policy guidance regarding archaeological resources in section 2.6.2:

Development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved.

Any proposed patios that would result in soil disturbance or excavation, or the pouring of footings, or the grading of soil for the laying of a stabilizing pad are permanent alterations and would require a Heritage Permit. The Heritage Permit would, in turn, trigger an archaeological assessment for the entire property where the property falls within the Town's Area of Archaeological Potential. A Heritage Permit would further be required for any patio that is proposed to be structurally or aesthetically tied into an existing structure.

It is recommended that Heritage Staff be circulated on all patio permit applications to monitor compliance with the recommended program parameters and to review where a Heritage Permit would be required. The Municipal Heritage Committee would review any Heritage Permit Applications, but would not be circulated on Temporary Patio Permit Applications not requiring a Heritage Permit.

5. STRATEGIC PLAN

Not applicable.

6. OPTIONS

Not applicable.

7. FINANCIAL IMPLICATIONS

Not applicable.

8. COMMUNICATIONS

The recommendations of the Committee will be forwarded to Council for consideration in the creation of the 2021 Temporary Patio Permit Program.

9. CONCLUSION

The input of the Municipal Heritage Committee is requested to inform the parameters of the 2021 Temporary Patio Permit Program, with specific regard for parameters that would mitigate potential impacts to cultural heritage resources within the Queen-Pictou Heritage Conservation District (the "District") and individually designated properties.

Respectfully submitted,

DHorne

**Denise Horne, MA, Diploma Heritage Conservation
Planner II**

ATTACHMENTS



APPENDIX I.pdf Appendix II - Patio Design Minimum Standards.pdf

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| | | | |
|-------------------|--|------------------------|--------------------------|
| Report: | CS-21-033 | Committee Date: | November 15, 2021 |
| | | Due in Council: | November 22, 2021 |
| Report To: | Corporate Services Advisory Committee | | |
| Subject: | 2022 Temporary Patio Program | | |

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Council support extending the Temporary Patio Program, until January 1, 2023;
- 1.2 Council further support the extension of existing liquor licenses to permitted temporary patios until January 1, 2023, provided businesses comply with all requirements of the Town's Temporary Permit Program and the AGCO, through Ontario Regulation 746/21 (Licencing) under the *Liquor Licence and Control Act, 2019* ;
- 1.3 Existing approved Temporary Patio Permits issued in 2021 be extended until January 1, 2023, upon submission of an updated Certificate of Insurance;
- 1.4 Should the Province affect any change to their Patio Policy for Eligible Liquor Sales Licensees, Staff be directed to undertake a review of the Town's Temporary Patio Program; program; and
- 1.5 Staff be directed to provide a recommendation report regarding the potential continuation of the Program beyond January 1, 2023, by December 2022.

2. PURPOSE / PROPOSAL

The purpose of this report is to seek further Council direction concerning extending the Town's Temporary Patio Program by providing flexibility to businesses impacted by the COVID-19 pandemic.

3. BACKGROUND

In June 2020, the Alcohol and Gaming Commission of Ontario's (AGCO) introduced legislation to allow restaurants and bars to temporarily extend outdoor patio spaces to safely accommodate patrons until January 1, 2021. This action was taken to support hospitality sector workers and businesses impacted by the COVID-19 outbreak.

The Town quickly followed suit by establishing the Temporary Patio Program in June of 2020 to support local restaurants, bars, and other food and drink establishments in their efforts to provide safe outdoor dining experiences during the pandemic.

As the Provincial Regulations were amended to extend the use of outdoor patio spaces, Staff provided a further report in April 2021 to refine and extend the Program to January 1, 2022.

On November 9, 2021, the AGCO announced several Regulations to modernize the new liquor framework under the *Liquor Licence and Control Act, 2019* (LLCA). The Information Bulletin is attached as Appendix I. Through this bulletin, the AGCO informed that the new framework will come into force on November 29, 2021. The AGCO further announced that current permits are not required to take any action before their scheduled renewal date. Current licences, permits, authorizations, and endorsements will transition to the new framework when the Regulations come into effect.

The AGCO has also informed that they will publish a guide to assist licence, permit and authorization holders in understanding the new liquor framework later in November. Additional information may be found [here](#).

Specific to the Provincial Patio Policy for Eligible Liquor Sales Licensees, the AGCO informs that O. Reg. 746/21 under the LLCA

Provides the Registrar the authority to approve and determine the duration of temporary physical extensions of premises at liquor licensed establishments. Once the new liquor framework under the LLCA is in force, the Registrar intends to extend the existing policy, to allow for the temporary physical extension of premises at liquor licensed establishments, until January 1, 2023.

4. DISCUSSION / ANALYSIS

The Temporary Patio Program has been well received by the business community, residents and visitors. It has successfully afforded businesses the opportunity to increase their capacity and stimulate the local economy while maintaining public safety.

In anticipation of the Registrar approving the duration of temporary physical extensions of premises at liquor licensed establishments until January 1, 2023, Staff recommend that Council extend the Town's Temporary Patio Program until January 1, 2023, to continue assisting with the business recovery model.

Should the Province affect any change to their Patio Policy for Eligible Liquor Sales Licensees, Staff will provide Council with a review of both the legislation and the Town's Program.

Existing Permits

Regarding the existing Temporary Patio Permit holders, Staff recommend that Permits be extended upon submission of updated Certificate of Insurance without the need to submit a renewal application. Several benefits would be realized by allowing the permitted operators to continue under their current permit number. It would provide customer service excellence by making the process easy and reducing the applicant's time in waiting for a permit. Also, Staff time would be reduced in processing the applications.

If existing permit holders would like to alter or expand their existing patio spaces, they will be expected to submit a new application

New Applications or Alterations/Expansions to Existing Patio Spaces:

For any establishments interested in obtaining a new Temporary Patio Permit (either as a new application or an alteration or expansion to an existing temporary patio), the following requirements would apply:

- Submit an online form,
- Site plan and an elevation plans, to scale, the plan must indicate the construction materials to be used, structural details, minimum distances to hydrants, boulevard trees, parking meters, intersections, and any other pertinent features,
- A summary of the proposed patio, its use, whether occupancy of the premises will be increased, a description of the furniture, how any safety concerns are being addressed, and expected benefits for the owner and the general public,
- A signed letter of endorsement from the owner, if applicable in the case of leased properties,
- A Certificate of Insurance, for the duration of the temporary patio expansion, in the amount of \$5 million listing the Town as additional insured for patios proposing to use municipal property,
- If there is any work taking place in the municipal right of way, the applicant must provide Staff with a traffic safety plan which clearly outlines the area of work and measures taken to promote traffic safety,
- Requirement to meet the design requirements as detailed in Appendix II.

Through the application process, Staff is committed to making every effort to enhance customer service, streamline processes, and support economic recovery while minimizing impact to the heritage district and ensuring all health and safety requirements are met. As in previous years, Town Staff will work with Patio Operators to achieve these objectives.

Additionally, this year Town Staff will seek opportunities to enhance the aesthetics of the area surrounding the temporary patios. For example, Staff is looking at 'placemaking options' such as the potential to install more creative safety barriers that better fit the aesthetic of the heritage district. Staff has applied for a grant under the 'My Main Street Community Activator' program.

5. Strategic Plan

- ☒ **Protect Distinctive Community Assets**
 - ☐ Preserve unique community elements
 - ☐ Close gap on capital investments
 - ☒ Recognize the importance of tourism in Niagara-on-the-Lake
 - ☐ Other
- ☐ **Deliver Smart Balanced Growth**
- ☐ **Create a Culture of Customer Service Excellence**
- ☐ **Excel in a Positive Workplace**
- ☐ **Strengthen 2-Way Communications**
- ☐ **Not Applicable**

6. OPTIONS

- 6.1 **Option 1:** Council approve the extension of the Temporary Patio Program to January 1, 2023, as detailed in this report. *(As Recommended)*
- 6.2 **Option 2:** Council not approve the extension of the program. *(Not Recommended)*
- 6.3 **Option 3:** Council request changes to the proposed program. *(Not recommended)*

7. FINANCIAL IMPLICATIONS

There are no direct financial implications to this report.

8. COMMUNICATIONS

Communication will be provided to businesses through the Town's website and social media accounts. Staff will reach out to the existing permit holders to request updated Certificates of Insurance.

9. CONCLUSION

The Town is committed to economic recovery and assisting local businesses with their recovery efforts. Continuing to provide a solution to permit the temporary expansion of outdoor restaurant patios on public sidewalks, parking spaces, and private property assist in this objective. Therefore, it is recommended that Council support the extension of the Temporary Patio Program.

This will continue to provide flexibility for the business community to attract customers and provide additional capacity that allows space for physical distancing in accordance with Provincial COVID-19 requirements.

Respectfully submitted,



Colleen Hutt
Acting Town Clerk



Kyle Freeborn, CPA, CMA
Director, Corporate
Services



Marnie Cluckie, MS.LOD, B.ARCH, B.ES
Chief Administrative Officer

First Capital of Upper Canada - 1792



AGCO

Alcohol and Gaming
Commission of Ontario

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Information Bulletin: Approved Liquor Framework Lays the Groundwork for a More Flexible, Modern Approach to Liquor Regulation

November 9, 2021

Regulations required to modernize the new liquor framework under the *Liquor Licence and Control Act, 2019* (LLCA) have been approved and filed. The LLCA will enable the AGCO to modernize the way it regulates the sale, service and delivery of liquor, and importantly, allow for a more flexible approach to regulation.

The new framework will come into force on November 29, 2021. AGCO licence, permit and authorization holders do not need to take any action before their scheduled renewal date. All current licences, permits, authorizations and endorsements will transition to the new framework when the LLCA comes into effect.

Later in November, the AGCO will publish a guide on its website to assist licence, permit and authorization holders in understanding the new liquor framework and to support their transition to the LLCA.

In the interim, this bulletin outlines highlights of the new framework for the AGCO's licence and permit holders, including:

- [New Permissible Activities and Red Tape Reforms](#)
- [Enhanced Social Responsibility Measures](#)
- [New Licence Structure](#)
- [Registrar's Interim Standards and Requirements for Liquor](#)
- [Patio Policy for Eligible Liquor Sales Licensees](#)

New Permissible Activities and Red Tape Reforms

Under the LLCA, several new permissible activities for licence holders will take effect. The government added, removed or changed provisions to modernize the existing liquor framework to reduce burden, facilitate better monitoring and compliance and reflect the changing liquor landscape for the benefit of Ontarians. The regulatory authority for some activities will also be transferring from the LCBO to the AGCO.

The changes include:

- Oversight of distribution and off-site warehousing will be transferring from the LCBO to the AGCO; this change will impact Ontario liquor manufacturers.
- Manufacturers will be permitted to deliver the liquor products of other licensed manufacturers that have an on-site retail store; a delivery endorsement will enable this activity.
- A new temporary extension endorsement will allow manufacturers with an on-site retail store to sell liquor products at industry promotional events, in addition to farmers' markets.
- All licensed grocery stores will be able to offer beer, wine and cider (as applicable) online for curbside pickup at the store, as permitted under their licence.
- Licensed grocery stores will be permitted to display non-liquor products, excluding energy drinks and products that promote immoderate consumption, within the contiguous aisles where liquor products (i.e. beer and cider, wine) are displayed.
- The ABV limits that wine and brew pubs are currently subject to will be removed. Previously, wine pubs could not sell wine with greater than 14% ABV, and brew pubs could not sell beer with greater than 6.5% ABV.
- Ferment on premise facilities will be permitted to combine multiple customers' ingredients, allowing innovative practices such as barrel aging.
- Liquor Sales Licence holders will be permitted to infuse liquor to create drinks or change the flavour of liquor through practices such as barrel aging, as long as the customer is informed.

Enhanced Social Responsibility Measures

The AGCO is committed to social responsibility and public protection in the liquor sector. Individuals involved in the sale, service or delivery of liquor are currently required to hold an AGCO Board-approved training certificate. Smart Serve is the only approved training program in Ontario. Starting July 1, 2022, a recertification requirement will be introduced. All training certificates, including those already issued, will be valid for a five-year term before recertification is required. AGCO has adopted this industry best practice in recognition of the significant recent modernization to Ontario's liquor sector. More information about new Smart Serve recertification requirements is available in this [AGCO Information Bulletin](#).

New Licence Structure

The LLCA will introduce a new, more flexible [liquor licence structure](#). The AGCO will issue liquor licences for six licence categories, associated licence classes and endorsements for additional activities.

The classes and prescribed special occasions for Special Occasion Permits will generally remain the same.

The AGCO will update the iAGCO online portal on November 29, 2021 to reflect the new LLCA framework, including changes to liquor licence types and certificates. As a result, licence and permit holders may notice the following changes when they access the iAGCO portal as of November 29:

- The name of some authorizations, licences and endorsements will change.
 - Affected licence holders will not need to take any action.
 - The new wording will automatically be updated in iAGCO and at the time of licence renewal.

Licence holders will continue to apply for a new licence, request a change, or renew their current licence(s) in iAGCO.

Registrar's Interim Standards and Requirements for Liquor Take Effect on November 29, 2021

The LLCA supports a shift to a standards-based approach to regulation, which is the first step in creating a regulatory model that is more flexible and focuses on outcomes rather than prescriptive rules. There may be many ways for a licence holder to meet a standard, providing the flexibility to determine what works best for their business.

Currently, the rules that licence, permit and authorization holders must follow to comply with their AGCO licence requirements are found in statutes, regulations and Registrar Policies. When the LLCA comes into force, the Registrar's Interim Standards and Requirements for Liquor (Interim Standards) will come into effect and will apply to all licence and permit holders in the liquor sector.

The first set of standards and requirements under the LLCA are "interim" because they will be replaced by permanent standards. The Interim Standards will simply maintain and consolidate many of the current rules and will also introduce some new rules for new activities and new AGCO authorities. Other rules for the liquor sector will remain in statutes and regulations.

The AGCO will soon begin working to develop the Registrar's Standards and Requirements for Liquor that will build the outcomes-based regulatory model enabled by the LLCA. Development of the permanent standards will occur over the next two to three years and will include engagement with the industry.

The Interim Standards are available on the AGCO website now to allow licence and permit holders time to become familiar before they take effect.

Patio Policy for Eligible Liquor Sales Licensees

To continue to provide flexibility to businesses impacted by the COVID-19 pandemic, the AGCO Registrar intends to extend the policy to allow for the temporary physical extension of premises (i.e. patios). Regulation 746 under the LLCA provides the Registrar the authority to approve and determine the duration of temporary physical extensions of premises at liquor licensed establishments. Once the new liquor framework under the LLCA is in force, the Registrar intends to extend the existing policy, to allow for the temporary physical extension of premises at liquor licensed establishments, until January 1, 2023. See the December 9, 2020 Information Bulletin (Annex A) for the existing policy.

For More Information

The AGCO is committed to supporting licence and permit holders and stakeholders during the transition to the new liquor framework. In addition to the upcoming guide that will be published on the AGCO's website, liquor licence, permit and authorization holders are also encouraged to review the:

- *Liquor Licence and Control Act, 2019*

- [Regulation 745 – General](#)
- [Regulation 746 – Licensing](#)
- [Regulation 747 – Permits](#)
- [The Registrar's Interim Standards and Requirements for Liquor](#)

LINE OF BUSINESS:

[Alcohol](#)

NUMBER:

71

[Information Bulletins](#)

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Minimum Design Standards

The below table identifies the Minimum Design Standards of the current Temporary Patio Program, for which all Temporary Patio Permits issued from 2020 to 2022 were required to meet (left column).

Should Council direct staff to review and revise, as necessary, the Minimum Design Standards for a permanent Seasonal Patio Program, the applicable Department and Staff to review each component is listed. The requirements for review (right column) range based on the Standards; however, in all cases, it is necessary that the Town ensure the safety of all individuals utilizing the Seasonal Patios and the functionality of the Patios.

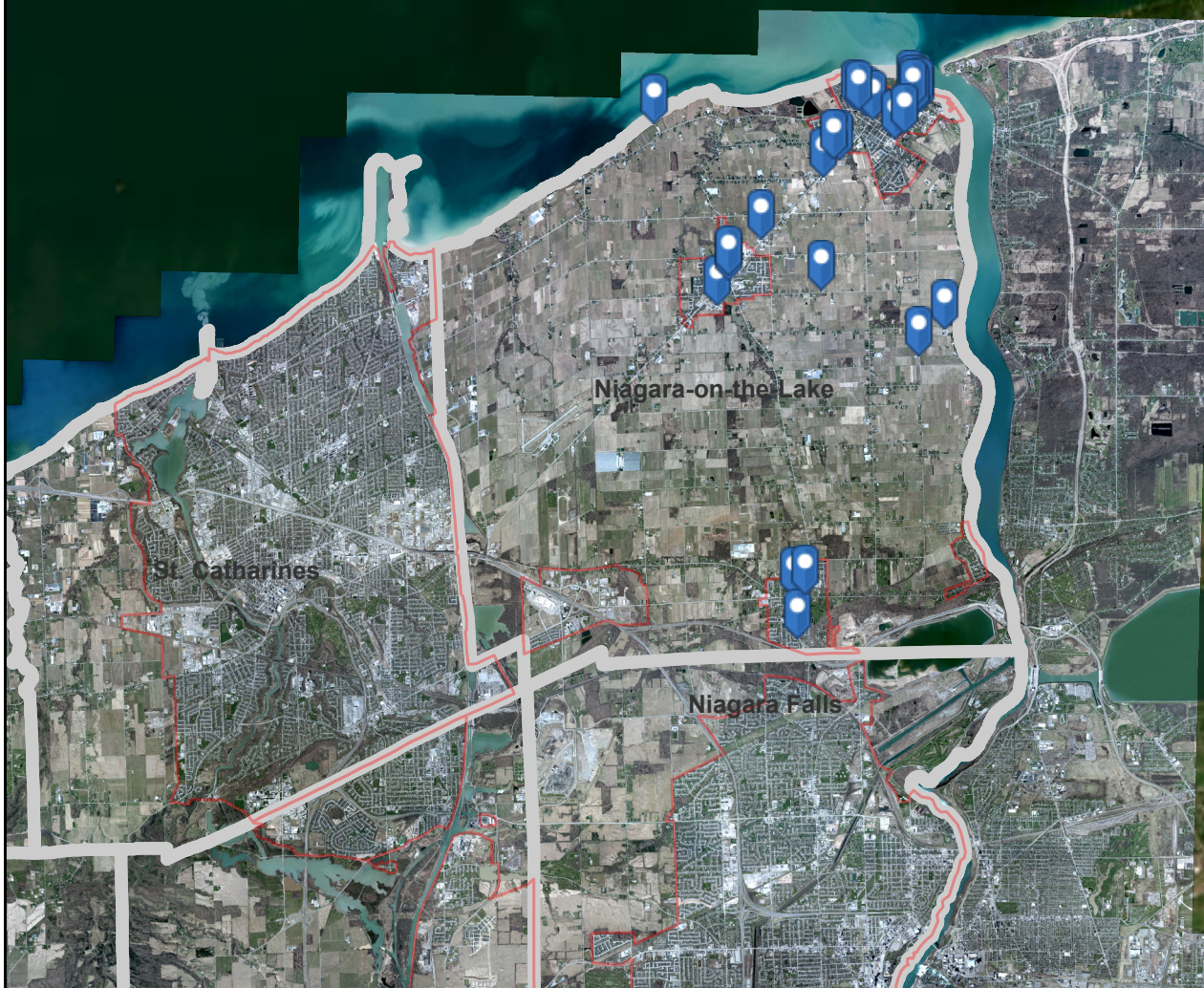
| Minimum Design Standard | Requirement for Review |
|---|--|
| <ul style="list-style-type: none">Barrier-free access and egress must not be compromised.The deck (floor structure) must have a flush transition at the sidewalk and curb to permit easy access and avoid tripping hazards.The sub-structure must accommodate the crown of the road and provide a level surface for the deck (floor structure).The deck must be constructed of a slip-resistant surface.A minimum of 20% of table must be accessible to persons using mobility aids but no less than one table in the outdoor eating areaGround surface leading to and under accessible tables must be level, firm and stableClear ground space around accessible tables allows for a forward approachAny gates must swing into the patio space and not obstruct the sidewalk or street. | <p>Accessibility</p> <p>To ensure that the requirements of the Seasonal Patio Program reflect <i>The Accessibility for Ontarians with Disabilities Act</i> rules, including compliance with the Outdoor Public Use Eating Areas (Section 80.16 and 80.17) of the Integrated Accessibility Standards Regulations (O. Reg. 191/11).</p> |
| <ul style="list-style-type: none">Temporary patios shall only be permitted for existing restaurants, bars, and other food and drink establishments (e.g. wineries, breweries, and distilleries).Temporary patios must not extend in front of adjacent tenant spaces, exits, or beyond business frontage without written permission from affected adjacent property owners and tenants; this includes any overhanging elements.Required on-site parking may be used for a temporary patio. The required number of designated Accessible Parking Spaces must remain available for parking use and designated fire routes and sight triangles must be avoided. A reasonable number of standard parking spaces should be maintained to serve patrons. | <p>Community & Development Services (Planning)</p> <p>To review requirements with respect to Zoning By-law provisions for hospitality area(s), parking, compatibility, and potential impacts.</p> <p>An update to the Town’s Zoning By-laws may be required to facilitate the Seasonal Patio Program on a permanent basis.</p> |
| <ul style="list-style-type: none">The patio must not interfere with proper drainage of the roadway (curbs/catch basins in the immediate area must be free of obstructions).Patios must have vertical elements that make them visible to traffic, such as flexible posts, bollards, or landscape planters, and include reflective elements so as to be visible by traffic at night. | <p>Operations</p> <p>To ensure that encroachment within the Town’s right-of-way and/or sidewalk is suitably addressed from a legal perspective.</p> <p>To review the potential implications on municipal parking</p> |

| Minimum Design Standard | Requirement for Review |
|--|---|
| <ul style="list-style-type: none">• If there is any work taking place in the municipal right of way you must provide staff with a traffic safety plan which clearly outlines the area of work and measures taken to promote traffic safety.• A minimum sidewalk width of 2.4 m should be maintained where possible.• The temporary installations must provide a minimum of 0.3 metres (12”) from the travelled portion of the roadway.• The patio should maintain that a minimum width of 4.5 m from the edge of the patio /to the street centerline.• No umbrellas or other treatments can extend into the sidewalk or travelled portion of the roadway. | <p>stall counts, including whether seasonal patios may be permitted within municipal parking stalls in tandem.</p> <p>Wording to be added to ensure that seasonal patios shall be located on public lands adjacent to the food and/or drink establishment.</p> |
| <ul style="list-style-type: none">• The patio should not interfere with the ability of first responders to access any buildings.• Patios are not to be constructed in Fire Access Routes.• A minimum of 1.5m (5ft) clearance from fire department connections and hydrants must be maintained on a temporary patio.• A fire extinguisher (minimum 2A-10BC) must be available within 15.2 m (50ft) of any part of the temporary patio.• Any tent must meet the flame resistant rating requirements in CAN/ULC S-109-M and NFPA701-1977 -“Standard for Flame Tests of Flame-Resistant Fabrics and Films” and certification of this must be supplied to the Fire Department prior to occupancy.• The occupancy load for a tent will be determined by the Town’s Fire Department and is subject to change dependent on the service of alcohol. | <p>Fire and Emergency Services For review to ensure that all fire-related requirements of the Ontario Building Code are addressed for each seasonal patio on private and/or public lands.</p> <p>Will result in increased capacity for the food and/or drink establishment, review to ensure that all requirements of the Ontario Building Code with respect to capacity and fire are addressed.</p> |
| <ul style="list-style-type: none">• For non-licensed establishments, the capacity of the temporary patio shall not exceed the posted occupancy of the main building.• For licenced establishments that do not have an existing licenced patio, the capacity of the temporary patio shall not exceed the posted occupancy of the indoor area indicated on your liquor licence or 1.11 m2. (12.0 sq ft) per person, whichever is the lessor.• For licenced establishments that have an existing licenced patio, the capacity of the combined area of the existing and temporary patios shall not exceed the posted occupancy of the indoor area indicated on your liquor licence or 1.11 sq. m. (12.0 sq. ft.) per person, whichever is the lessor.• If the patio includes the use of a tent or temporary, portable structure consistent with the content of the Ontario Building | <p>Community & Development Services (Building) For review to confirm that the existing business can accommodate additional capacity, and/or to identify requirements to ensure that the additional capacity can be safely accommodated in accordance with the Ontario Building Code.</p> <p>To identify which information is required to support temporary additional capacity, including but not limited to floor plans and identification of existing washroom facilities.</p> |

| Minimum Design Standard | Requirement for Review |
|--|---|
| <p>Code outlined in Subsection 3.14.1, the applicant will require a building permit if the tent meets any of the following requirements:</p> <ul style="list-style-type: none">• The tent exceeds an area of 60m2 (645 sq. ft.).• A group of tents in aggregate area and are closer than 3m apart with a combined area of 60m2.• The tent is within 3m of an existing structure.• The structure is attached to a building.• Railings and vertical elements should be a minimum of 0.91 metres (36”) and no higher than 1.07 metres (42”) in height.• Cooking of food and drink preparation is not permitted on temporary patios.• Tables shall not exceed a height of 0.865 metres (34”) above the finished floor of a patio (deck). | |
| <ul style="list-style-type: none">• Owners shall provide their liquor license, if requested by any Municipal Officer.• Any Officer of the Municipality is authorized to inspect all temporary patios and require adjustments to the patio in order to address compliance with these Guidelines.• Operators must adhere to the Town's Noise By-law No. 4588-12, as amended. | <p>By-law Confirm appropriate authorization for inspections and compliance.</p> |
| <ul style="list-style-type: none">• The design is to include fencing to define the space.• Decorative free-standing flower pots or planting boxes are encouraged to be included in any design.• Decorative free-standing flower pots or planting boxes are encouraged.• Patios be constructed of wood or metal rather than plastic.• Patios be natural or stained wood or painted in a colour from the approved Niagara on- the-Lake approved colour chart (or similar) to the satisfaction of the Director of Community and Development Services.• Lighting on patios be simple in design, of a warm white light, that illumination be directed downward, and that no colour changing or flashing lighting is permitted to the satisfaction of the Director of Community and Development Services.• No signage is permitted to be installed on the patio structure with the exception of one menu sign at a maximum size of 0.2 square metres in area.• Lighting will be subject to review and will be designed and installed in such a way as to not create a visual or physical distraction to travelling public on the sidewalk or roadway. | <p>Urban Design Committee Ensure that existing standards are reflective of operational and functional requirements.</p> <p>Opportunity to implement urban design principles to enhance the streetscape and pedestrian interaction with these spaces.</p> |



| Minimum Design Standard | Requirement for Review |
|---|---|
| <ul style="list-style-type: none">• A Heritage Permit is required to be obtained by a property owner for the construction of any patio temporary or otherwise, which will result in soil disturbance or excavation, including the pouring of below-grade footings, or slab on grade foundations, or where any patio structure is proposed to be attached to an existing building, or slab on grade foundations, or where any patio structure is proposed to be attached to an existing building or structure.• That non-branded umbrellas be used exclusively. If shade is required then non-branded pergolas and umbrellas are used instead of tents.• A Heritage Permit is required for the installation or construction of any permanent buildings/structures/fixtures/signs/etc on any property designated under the Heritage Act, including all properties located within the Queen Picton Heritage Conservation District. | <p>Municipal Heritage Committee Review design standards as they apply to properties designated under the <i>Ontario Heritage Act</i>.</p> <p>Consider any specific design requirements necessary for seasonal patios within the Queen Picton Heritage Conservation District.</p> |


Please note that if a permanent Seasonal Patio Program is endorsed, it will be very important to implement ongoing monitoring to measure success and determine any adjustments needed over time. These Standards may require updating and refining as informed by Staff monitoring of the Program.



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

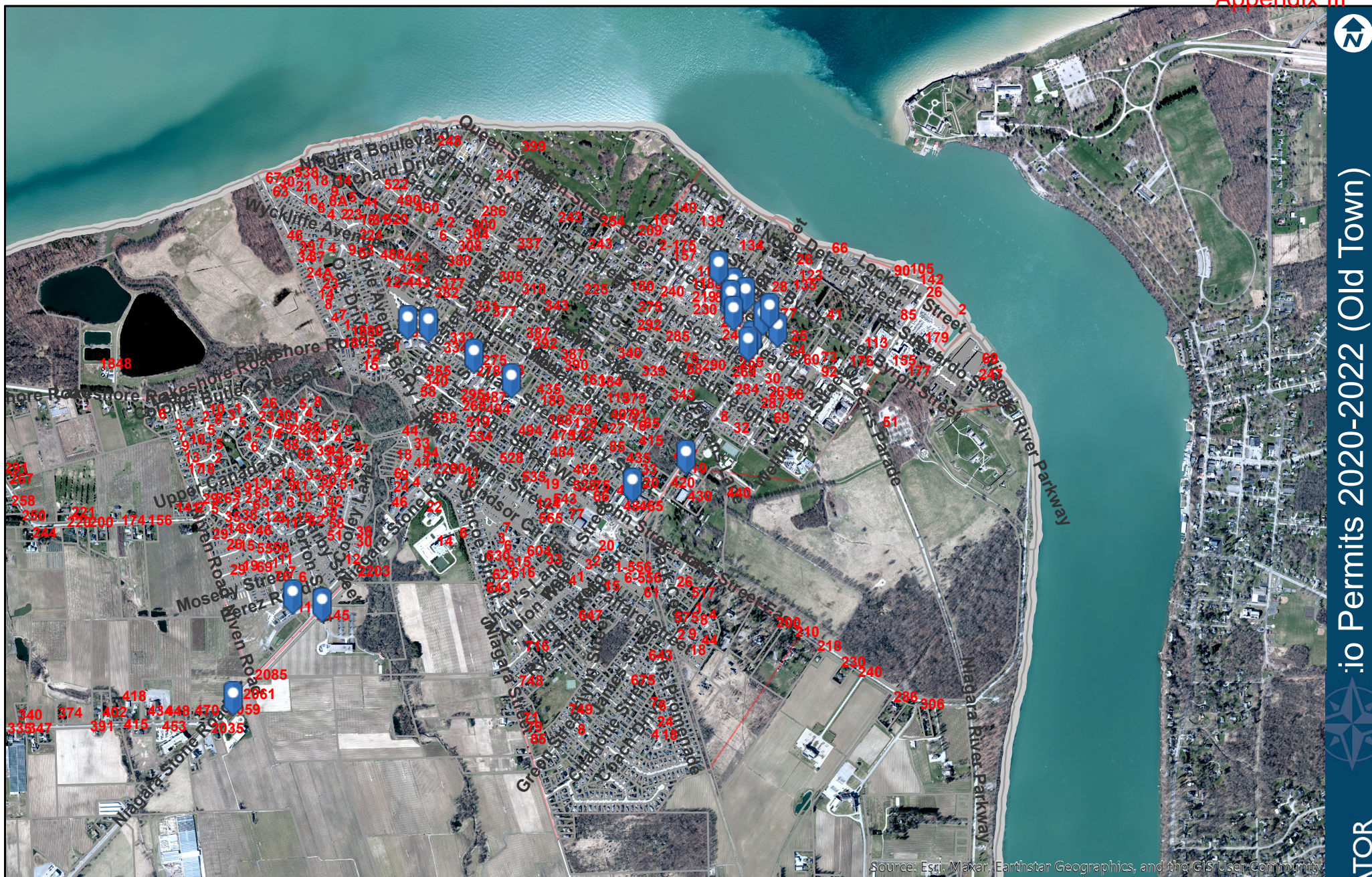
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Road Labels  Urban Area Boundaries  Municipal Boundaries

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Legend

- Parcels
- Housenumber
- Municipal Boundaries
- Road Labels
- Urban Area Boundaries

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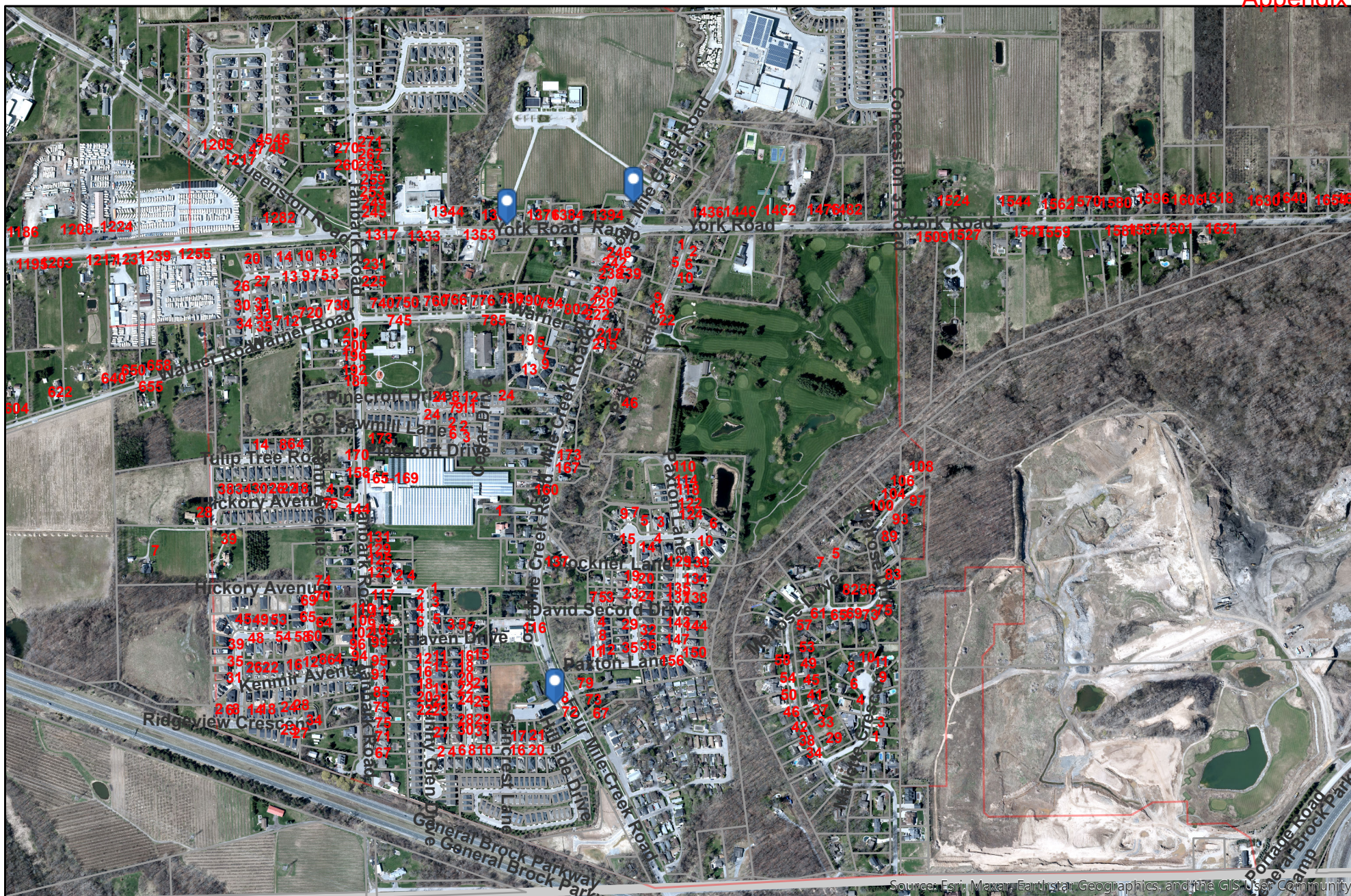
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- Road Labels
- Urban Area Boundaries

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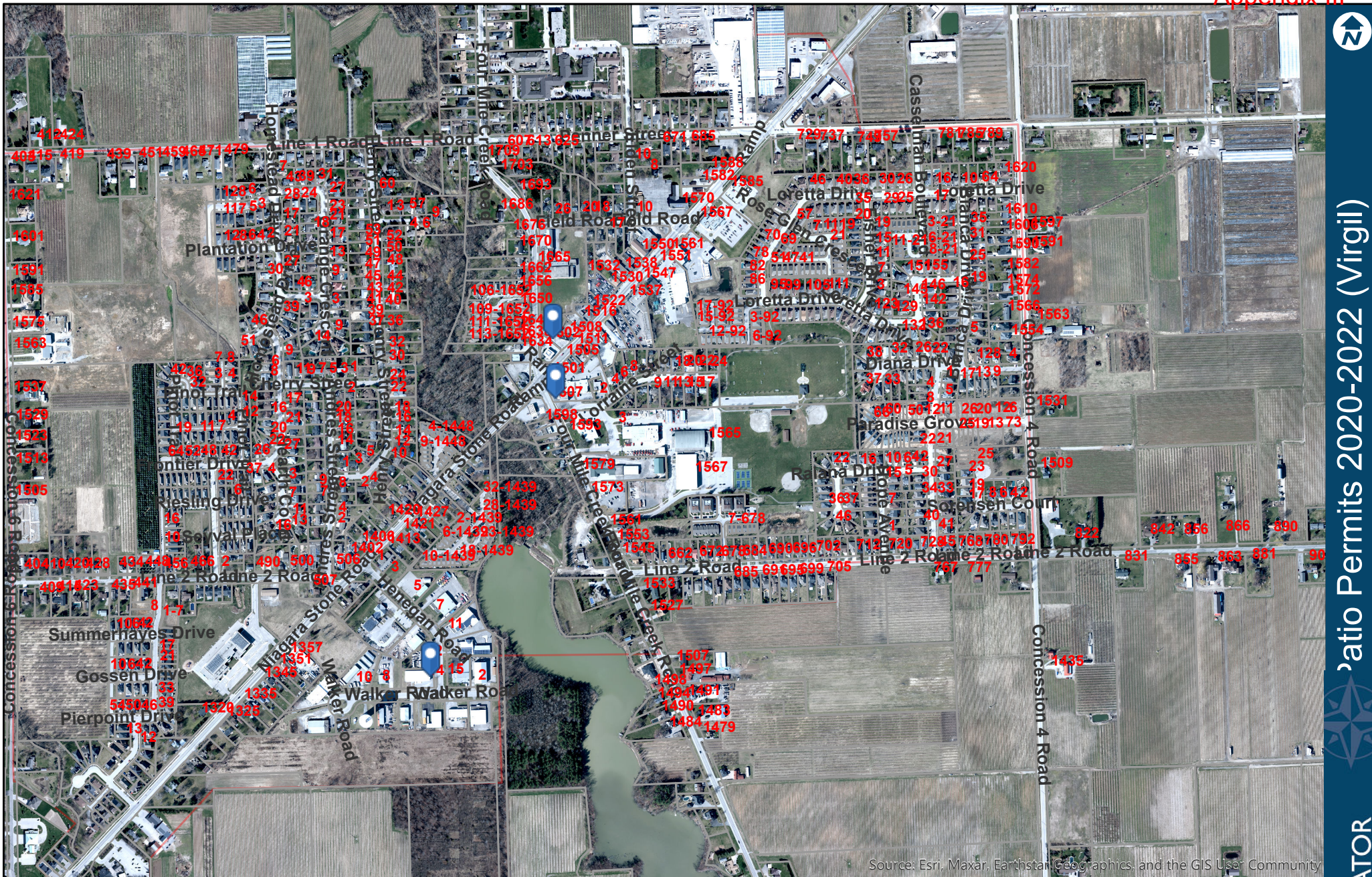


Legend

- Parcels
- Housenumber
- Municipal Boundaries
- Road Labels
- Urban Area Boundaries

Date: 2022-11-23 Time: 4:11 PM 0 0.1 0.2 0.4 0.6 0.8
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Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

Legend

- Parcels
- Municipal Boundaries
- Urban Area Boundaries
- Road Labels
- Housenumber

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Patio Program Survey Results

SURVEY DETAILS

On August 14, 2023, Town Staff published a survey on Join the Conversation (JTC) for feedback about the Town's Temporary Patio Program. This survey was open until midnight on September 8, 2023.

Three hundred and ninety-four (394) respondents completed the survey. This response rate is above average for the Town's JTC site surveys. Over the past two years, the average number of survey responses is 161 per project.

The survey was advertised via a media release on the Town's website, social media platforms (Facebook, Twitter, and Instagram), newspaper advertisements in the three local newspapers and via a newsletter through JTC.

Of the 394 respondents:

- 1.0% of respondents lived in Glendale
- 51.0 of respondents live in Old Town
- 2.0% of respondents live in Queenston
- 9.1% of respondents live in Rural Niagara-on-the-Lake
- 7.1% of respondents live in St. Davids
- 8.9% of respondents live in Virgil
- 20.8% of respondents do not live in Niagara-on-the-Lake

Summary of Survey Responses

Staff has reviewed and analyzed the survey data. A summary of the survey results and emerging themes can be found below. In alignment with best practices associated with survey analytics and to protect the anonymity of survey respondents, the raw written data of this survey will not be provided for public viewing. This best practice aligns with the *Information and Privacy Commissioner of Ontario*, whereby the agency advises reporting survey results as aggregated information without identifying specific individuals.

Questions are presented as a percentage (%). Due to rounding, some percentage totals may not add to 100%.

For Council's convenience, the highest responses in each category have been **bolded**.

SURVEY RESULTS

Q1: Please identify the perspective(s) through which you are responding to the survey.

**Mandatory question: 394 respondents.*

| Answer | Percentage of Respondents |
|--|----------------------------------|
| As a Niagara-on-the-Lake Resident | 75.9% |
| As a Niagara-on-the-Lake Visitor | 16.8% |
| As a Niagara-on-the-Lake Business Owner who operates a patio (past or present) | 2.8% |
| As a Niagara-on-the-Lake Business Owner who does not operate a patio | 4.6% |
| As someone who works in Niagara-on-the-Lake | 6.9% |
| Other (please specify) | 3.0% |

Other (please specify) comments included that the respondent(s) used to live in Niagara-on-the-Lake, that the respondent(s) is a frequent visitor to Niagara-on-the-Lake, and that the respondent(s) used to work in Niagara-on-the-Lake.

Q2: Which of the following age categories do you belong to?

**Mandatory question: 394 respondents.*

| Answer | Percentage of Respondents |
|-----------------------|----------------------------------|
| Under 18 years | 0.3% |
| 18-24 years | 1.5% |
| 25-34 years | 3.3% |
| 35-44 years | 7.6% |
| 45-54 years | 15.0% |
| 55-64 years | 32.0% |
| 65+ years | 40.4% |

Q3: Do you support the Town's Patio Program as it currently stands?

The Town's Temporary Patio Program allows existing food and drink establishments to extend their operations by providing a patio on a temporary basis, subject to Town requirements. These patios can be located adjacent to businesses/buildings, within municipal parking spaces, or on privately owned parking lots/areas. Food and drink establishments are required to apply for a Temporary Patio Permit annually under the current program.

**Mandatory question: 394 respondents.*

| Answer | Percentage of Respondents |
|---------------|----------------------------------|
| Yes | 93.1% |
| No | 6.9% |

Q4: From the perspective in which you are answering this survey, what (if anything) do you think are some positive aspects about patios in Niagara-on-the-Lake?

**Optional question: 365 respondents.*

The top three emerging themes from the written responses provided include:

- **OUTDOOR DINING:** Patios goers have the opportunity to enjoy the warm weather, look at the view of Queen Street, and outdoor dining allows for additional space.
- **VIBRANT ATMOSPHERE:** Patios offer a vibrant, beautiful, charming ambience and create an inviting environment.
- **ADDITIONAL BUSINESS REVENUE:** Patios support tourism and economic development within the Niagara-on-the-Lake community.

Q5: From the perspective in which you are answering this survey, what (if anything) do you think are some negative aspects about patios in Niagara-on-the-Lake?

**Optional question: 334 respondents.*

The top three emerging themes from the written responses provided include:

- **PARKING:** Patios take up parking spaces.
- **TRAFFIC AND CONGESTION:** Patios cause vehicular and pedestrian traffic congestion.
- **UNATTRACTIVE:** Patios need design requirements to fit into the beauty and aesthetic of the surrounding streetscape.

Q6: Approximately how many times have you personally visited a Niagara-on-the-Lake patio in the last year?

**Mandatory question: 394 respondents.*

| Answer | Percentage of Respondents |
|---|---------------------------|
| 1-5 times | 29.4% |
| 6-10 times | 25.6% |
| 11+ times | 37.3% |
| I have not visited a patio in Niagara-on-the-Lake in the last year, but have in previous years. | 4.3% |
| I have never visited a patio in Niagara-on-the-Lake. | 3.3% |

Q7: If you have visited a patio(s) in Niagara-on-the-Lake, which area was the patio(s) in?

**Optional question: 378 respondents.*

| Answer | Percentage of Respondents |
|----------------------|---------------------------|
| Glendale | 2.9% |
| Old Town | 98.9% |
| Rural / Agricultural | 16.9% |
| St. Davids | 29.4% |
| Queenston | 4.2% |
| Virgil | 38.4% |

Q8: Why did/do you choose to sit on a patio in Niagara-on-the-Lake?

**Optional question: 363 respondents.*

The top three emerging themes from the written responses provided include:

- **NICE WEATHER AND FRESH AIR:** Respondents chose to sit on a patio because of good weather, fresh air, and to be outside instead of inside.
- **ATMOSPHERE:** Respondents chose to sit on a patio because of the atmosphere on and surrounding the patio and the things to watch outside as they are dining.
- **PET-FRIENDLY:** Respondents chose to sit on a patio as they could be accompanied by their dog(s).

Q9: Based on your experience visiting a patio(s) in Niagara-on-the-Lake, on a scale from 1 to 10, please rank the following. (1 is the lowest ranking and 10 is the highest ranking)

**Optional question: 379 respondents.*

| Item | Answer Options and Percentage of Respondents | | | | | | | | | |
|--|--|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| | 10 | 9 | 8 | 7 | 6 | 5 | 4 | 3 | 2 | 1 |
| Did/does the patio enhance the public realm and surrounding streetscape? | 54.6% | 14.7% | 15.5% | 3.69% | 2.37% | 2.11% | 1.05% | 1.84% | 2.11% | 2.90% |
| Did/does the patio contribute to the character of the surrounding area? | 57.2% | 11.8% | 12.9% | 4.22% | 3.69% | 2.90% | 0.26% | 1.31% | 1.31% | 3.43% |
| Did/do you find it safe? | 72.5% | 10.2% | 7.38% | 3.16% | 1.31% | 1.05% | 0.52% | 0.52% | 0.52% | 1.58% |
| Did/do you find it comfortable? | 57.5% | 15.5% | 13.7% | 4.22% | 3.16% | 1.31% | 0.79% | 1.31% | 0.52% | 1.05% |
| How likely are you to recommend a Niagara-on-the-Lake patio experience to someone? | 74.9% | 8.17% | 5.80% | 1.84% | 1.58% | 1.58% | 0.79% | 1.31% | 0.52% | 2.63% |

Q10: Have you experienced any accessibility concerns specific to temporary patios?

**Optional question: 376 respondents.*

| Answer | Percentage of Respondents |
|--|---------------------------|
| Yes, accessibility to the patio area | 2.4% |
| Yes, accessibility while maneuvering within the patio | 3.2% |
| Yes, accessibility maneuvering around the outside of the patio | 5.9% |
| No, I have not experienced any accessibility concerns | 89.6% |
| Other (please specify) | 2.7% |

Other (please specify) comments included that patios are even easier to access than indoor seating, more space is needed on patios, access to washrooms from the outside needs improvement, and a designated wheelchair table with signage is needed.

Q11: How likely are you to recommend a Niagara-on-the-Lake patio experience to someone?

**Optional question: 381 respondents.*

| Answer | Percentage of Respondents |
|--|---------------------------|
| Very Likely | 81.9% |
| Likely | 11.0% |
| Unlikely | 4.5% |
| I will not recommend a Niagara-on-the-Lake patio experience. | 0.8% |
| I don't know. | 1.8% |

Q12: In your experience, has the presence of temporary patios impacted the following?

**Mandatory question: 394 respondents.*

| Item | Answer Options and Percentage of Respondents | |
|--|--|--------------|
| | Yes | No |
| Vehicular access and circulation | 15.2% | 84.7% |
| Pedestrian access and circulation | 17.7% | 82.2% |
| Active transportation access and circulation | 12.4% | 87.5% |

Q13: Temporary patios are currently permitted on Town-owned property including on sidewalks and municipal parking stalls. Would you support the continued use of municipal parking stalls and sidewalks for patio use on a seasonal basis?

**Mandatory question: 394 respondents.*

| Answer | Percentage of Respondents |
|--------------------------|----------------------------------|
| Yes, in all areas | 88.1% |
| No, not in any areas | 5.3% |
| Other (please specify) | 7.4% |

Other (please specify) comments included that a fee should be implemented, that the respondent is in support as long as the patio does not impede pedestrian traffic or parking, that the respondent is in support as long as all businesses have equal opportunity, that sidewalks are overcrowded, and that the respondent does not support patios in Old Town, Queen Street specifically.

Q14: Have you applied for a Patio Permit through the Town's Temporary Patio Program?

**Mandatory question: 394 respondents.*

| Answer | Percentage of Respondents |
|---------------|----------------------------------|
| Yes | 2.5% |
| No | 97.5% |

Q15: Where is your business(es) located?

**Optional question: 10 respondents.*

| Answer | Percentage of Respondents |
|----------------------|----------------------------------|
| Glendale | 0% |
| Old Town | 80.0% |
| Rural / Agricultural | 10.0% |
| Queenston | 0% |
| St. Davids | 10.0% |
| Queenston | 0% |

Q16: If your business includes a patio, where is your patio located?

**Optional question: 10 respondents.*

| Answer | Percentage of Respondents |
|---|----------------------------------|
| Within the Town's sidewalk | 0% |
| Within the Town's road allowance / right-of-way | 20.0% |
| On private property | 50.0% |
| Other (please specify) | 30.0% |

Other (please specify) comments included that their patio was on private property and within the Town's right-of-way, on a flower bed, and that the Town did not approve their patio.

Q17: Does your business offer indoor dining?

**Optional question: 9 respondents.*

| Answer | Percentage of Respondents |
|--------|---------------------------|
| Yes | 88.9% |
| No | 11.1% |

Q18: Has the patio resulted in a positive impact for your business?

**Optional question: 9 respondents.*

| Answer | Percentage of Respondents |
|--------|---------------------------|
| Yes | 100% |
| No | 0% |

Q19: What benefits (if any) does a temporary patio offer your business?

**Optional question: 10 respondents.*

Responses included that patios offer increased customer space and seating, increased revenue (especially after the pandemic), and guests can enjoy the outdoors.

Q20: What challenges (if any) does your business face with regards to a temporary patio?

**Optional question: 8 respondents.*

Responses included that there are no challenges, that patios only being available for 8 months is a challenge, that weather is a challenge, and that limitations on the size of a patio is a challenge.

Q21: As a result of having a patio, have you had to hire additional Staff?

**Optional question: 9 respondents.*

| Answer | Percentage of Respondents |
|--------|---------------------------|
| Yes | 77.8% |
| No | 22.2% |

Q22: Does your patio meet accessibility requirements? (i.e. AODA compliance)

**Optional question: 8 respondents.*

| Answer | Percentage of Respondents |
|--------|---------------------------|
| Yes | 100% |
| No | 0% |

Q23: If the Town was to implement a Permit fee for patios, what is the highest amount you would be willing to spend on an annual fee?

**Optional question: 10 respondents.*

| Answer | Percentage of Respondents |
|----------------------|---------------------------|
| Less than \$200 | 30.0% |
| \$201 - \$500 | 40.0% |
| \$500+ | 30.0% |

Q24: If the Town was to implement a Permit fee for patios, what fee structure would you prefer?

**Optional question: 10 respondents.*

| Answer | Percentage of Respondents |
|----------------------------------|---------------------------|
| An annual application fee | 80.0% |
| Fees per square foot | 20.0% |
| Other (please specify) | 0% |

Q25: Would you apply for a Patio Permit through the Town's Temporary Patio Program in future years?

**Mandatory question: 394 respondents.*

| Answer | Percentage of Respondents |
|------------|---------------------------|
| Yes | 4.3% |
| No | 15.0% |
| N/A | 80.7% |

Q26: Please explain why you would not apply for a Permit through the Town's Temporary Patio Program in the future.

**Optional question: 50 respondents.*

The top emerging theme from the written responses provided include:

- **NOT A BUSINESS OWNER:** Respondents do not own or operate a business in Niagara-on-the-Lake.

Q27: The Town's current Temporary Patio Program identifies a number of minimum design requirements. If changes or enhancements to the following requirements were made, would this impact your interest in applying for a Temporary Patio Permit?

**Optional question: 17 respondents.*

| Answer | Percentage of Respondents |
|---|---------------------------|
| Yes, if changes to umbrellas were required, it would impact my interest | 17.6% |

| | |
|--|--------------|
| Yes, if changes to patio base materials were required, it would impact my interest | 17.6% |
| Yes, if changes to fencing were required, it would impact my interest | 17.6% |
| Yes, if changes to landscaping were required, it would impact my interest | 17.6% |
| Yes, if changes to lighting were required, it would impact my interest | 17.6% |
| No, additional design requirements would not impact my interest | 64.7% |
| | |
| Other (please specify) | 17.6% |

Other (please specify) comments included that all patios should look permanent and be landscaped accordingly, that the Patio Program process is good now but the respondent would be willing to make additional design requirements, and that design requirements would be welcomed, especially landscaping and design.

Q28: Are there any ways to improve the Town's existing Temporary Patio Program?

**Optional question: 221 respondents.*

The top three emerging themes from the written responses provided include:

- **MAKE THE PATIO PROGRAM PERMAMENT:** Respondents answered that the patio program should be permanent in Niagara-on-the-Lake.
- **STANDARDIZED RULES:** Respondents answered that standardized aesthetics, design, safety, and structure should be standardized to create cohesion amongst patios.
- **PEDESTRIANS ONLY ON QUEEN STREET:** Respondents answered that Queen Street should be a pedestrian-only zone during the summer season and/or on weekends, as vehicular traffic poses concerns.

Q29: If Town Council approve the continuation of the review of the Temporary Patio Program, the Town will hold a focus group session to connect with residents, business owners and patio operators to gain further insight into their experiences and perspectives. Are you interested in being a part of a Temporary Patio Program focus group?

**Mandatory question: 394 respondents.*

| Answer | Percentage of Respondents |
|--------|---------------------------|
| Yes | 32.0% |
| No | 68.0% |

Q30: If you answered yes to joining a focus group, please provide your email address in the space below.

**Optional question: 125 respondents.*

Responses included respondent's email addresses.

Q31: Using the space below, please provide any additional comments you have regarding temporary patios in Niagara-on-the-Lake.

**Optional question: 177 respondents.*

The top three emerging themes from the written responses provided include:

- **AMBIENCE:** Respondents answered that patios add to the overall atmosphere and charm of Niagara-on-the-Lake.
- **SUPPORTS JOBS, TOURISM AND BUSINESS REVENUE:** Respondents answered that patios support overall business revenue and jobs, especially for youth, and provide more tourism opportunities.
- **MAKE THE PATIO PROGRAM PERMANENT:** Respondents answered that the patio program should be permanent in Niagara-on-the-Lake.

PUBLIC INFORMATION CENTRE (PIC) RESULTS

Town Staff also received feedback in person via a Public Information Centre (PIC) held on Monday, August 28, from 12:00 p.m. to 3:00 p.m. at the Niagara-on-the-Lake Courthouse.

Approximately 10 individuals attended the PIC to specifically discuss the program, and Staff spoke with approximately 75 individuals through informal discussion who were walking by or visiting the Courthouse.

The majority of comments indicated that individuals enjoyed the patios in NOTL. Comments generally focused on parking, consistent design and material requirements, and landscaping/planting. Most individuals took a QR code card from Staff to take the survey online.



27 September 2023

Aimee Alderman, MSc, MCIP, RPP
Senior Planner- Community & Development Services
Town of Niagara-on-the-Lake
1593 Four Mile Creek Road
PO Box 100 Virgil
ON L0S 1T0

Dear Ms. Alderman,

RE: Temporary Patio Program

On behalf of the Niagara-on-the-Lake Chamber of Commerce & Tourism NOTL, I am writing to express our support for the continuation of the Niagara-on-the-Lake Temporary Patio Program.

The Temporary Patio Program, introduced in the summer of 2020, has proven to be a vital lifeline for our local hospitality sector, which has been significantly impacted by the ongoing COVID-19 pandemic. We endorse its continuation for the following compelling reasons:

1. **Enhancement to the Heritage District:** The program has undeniably enhanced the charm and appeal of our Heritage District. It seamlessly blends the rich historical character of our town with modern hospitality offerings, creating a unique and inviting atmosphere for residents and visitors alike.
2. **Vibrancy and Street Activity:** Patios have injected life, energy, and activity into our streets, particularly during the spring, summer, and fall months. The sight of people dining outdoors adds vibrancy to our town.
3. **Visitor Experience:** Visitors to Niagara-on-the-Lake cherish the opportunity to dine outside on restaurant patios, allowing them to savor the natural beauty of our surroundings while enjoying their meals. This aligns perfectly with our town's commitment to offering a memorable and immersive experience.
4. **Positive Feedback:** Restaurants with patios have consistently received positive feedback from patrons. It is evident that residents and tourists alike appreciate the option to dine al fresco and relish the picturesque setting our town offers.
5. **Job Creation:** The program has not only helped businesses survive but has also created jobs through increased customer demand. This is particularly important as we aim to support our local workforce as we recover from challenging times.
6. **Accessibility:** Patios have improved accessibility for all members of our community, making dining out a more inclusive and enjoyable experience.



7. **COVID-19 Considerations:** Patios provide a safer dining option for individuals who may still be cautious about indoor dining due to COVID-19 concerns. The open-air environment offers peace of mind while allowing people to enjoy their meals.
8. **European Flare:** The presence of patios adds a European flare to our streets, making Niagara-on-the-Lake even more attractive as a tourist destination and a place to call home.
9. **Competitive Advantage:** Many other towns and cities have embraced similar programs. To not continue our Temporary Patio Program would put Niagara-on-the-Lake at a competitive disadvantage, potentially deterring visitors and hindering the growth of our local economy.

In addition to the aforementioned reasons, we believe that the continuation of this program aligns with our town's commitment to economic growth, community well-being, and cultural richness. Furthermore, it offers an opportunity for businesses to adapt to evolving consumer preferences and market trends.

As you undertake the review of the Temporary Patio Program, we respectfully request that you consider the immense value it brings to our community and the significant role it plays in ensuring the prosperity of our local businesses. We also encourage the Town Council to explore the creation of a potential permanent Seasonal Patio Program, which would provide long-term benefits to our town.

We are confident that your thoughtful consideration of our support for the Niagara-on-the-Lake Temporary Patio Program will lead to a decision that aligns with the best interests of our community. If you require any further information or assistance, please do not hesitate to contact our office.

Thank you for your dedication to the betterment of Niagara-on-the-Lake, and we look forward to a positive outcome in support of this invaluable program.

Sincerely,

Minerva Ward
President & CEO

Niagara-on-the-Lake Chamber of Commerce & Tourism NOTL