

Zoning By-law Patio Program Guidelines (2024)

This program is intended to support local restaurant or establishment for dispensing of refreshments outdoors to the public, as permitted by the new Zoning By-law approved in 2024, by providing flexibility to businesses while ensuring safety standards and measures remain in place.

Purpose and Background

This program is to inform businesses, which dispense food and refreshments to the public with the Township of Woolwich, of the new Outdoor Patio regulations in the new Zoning By-law. Compliance to the Outdoor Patio provisions in the new Zoning By-law does not relieve a business from complying to other applicable By-laws, Codes, regulations, requirements or Acts of the Township or any other applicable agency and government.

These guidelines pertain both to temporary patios on privately-owned land, and to those that are established with the public right of way or other approved locations on Township Property.

General Requirements

- 1) An Outdoor Patio shall be permitted for a licensed or unlicensed (as in licensed or unlicensed to serve alcoholic beverages) “restaurant”, tavern, hospitality area for a micro-brewery or similar uses (hereinafter the “business”) meaning an area that is not a permanent enclosed public place or a permanent enclosed workplace and that meets the following criteria:
 - a) The definition of a *Restaurant, Tavern, Micro-brewery* or the *Establishment for Dispensing of Refreshments to the Public*, or where *Dispensing of Refreshments to the Public* is contained in Section 3 of the Zoning By-law and has been permitted through a Zoning Compliance Certificate confirming that the use conforms to the permitted uses and regulations in the Zoning By-law;
 - b) Food or drink is served or sold or offered for consumption in an outdoor area, accessory to an area where food or drink is served or sold or offered;
 - c) May or may not include temporary patio enclosures (e.g., tents, domes etc.) but shall not be a permanent building or structure, and
 - d) The restaurant or food establishment has an approved Zoning Compliance Certificate with the Township of Woolwich.
- 2) The Outdoor Patio regulations may differ depending on the zone that the business is located. The following is a summary of the regulations within a Commercial, Industrial or Stockyards Area zone.

Commercial Zone

The following are Outdoor Patio regulations within all commercial zones, with additional regulations for Outdoor Patios in the C-1 Zone (i.e., within the Core Area of Elmira and St. Jacobs).

- i) The Outdoor Patio is in addition to the maximum Gross Leasable Floor Area requirement that may be prescribed to the business in the zone that the parcel lies;

- ii) No Outdoor Patio shall be permitted within a yard where more than one lot line adjoins lands which are within a residential zone;
 - a. Notwithstanding ii) above,
 - i. Where a commercial lot within the C-1 Zone has only the rear lot line adjoining a residential zone, an Outdoor Patio for the commercial lot may be permitted within the front yard or flankage, but shall not be permitted within the interior/shared side yard; and
 - ii. Where a commercial lot within the C-1 Zone has only the side lot line adjoining a residential zone, an Outdoor Patio for the commercial lot may be permitted within the interior side yard or flankage that is not adjacent to the residential zone;
- iii) No Outdoor Patio shall be located above the first storey floor elevation of the main building where the Outdoor Patio adjoins a residential zone unless the Outdoor Patio is a distance of a minimum of 30 metres from the boundary of the residential zone;
- iv) An Outdoor Patio that is permitted within a side or rear yard shall be located a minimum of 1 metres from the lot line;
- v) An Outdoor Patio that is permitted within a front yard and/or flankage shall have a minimum 0 metre setback to the street line; and
- vi) An Outdoor Patio shall not encroach onto or impact a required parking space on the lands and shall be a minimum 3 metres away from any loading space and 1 metre away from any parking space, parking aisle or driveway.

Industrial Zone

The following are outdoor patio regulations within all industrial zones that permit the business and an outdoor patio area (i.e., EM-1, EM-2, EM-4, EM-6, EM-7 and EM-8 Zones).

- i) The Outdoor patio is in addition to the maximum Gross Leasable Floor Area requirement that may be prescribed to the business in the zone that the parcel lies;
- ii) No Outdoor Patio shall be permitted within the yard where more than 1 lot line adjoins lands which are within a residential zone;
- iii) No Outdoor Patio shall be located above the first storey floor elevation of the main building where the Outdoor Patio adjoins a residential zone unless the Outdoor Patio is a distance of a minimum of 30 metres from the boundary of the residential zone;
- iv) An Outdoor Patio that is permitted within a side or rear yard shall be located a minimum of 1 metres from the lot line;
- v) An Outdoor Patio permitted within a front yard and/or flankage shall have a minimum 0 metre setback to the street line; and

- vi) An Outdoor Patio shall not encroach onto or impact a required parking space on the lands and shall be a minimum 3 metres away from any loading space and 1 metre away from any parking space, parking aisle or driveway.

Stockyards Area Zone

The following are outdoor patio regulations within all Stockyard Area zones that permit the business and an outdoor patio area.

- i) The Outdoor Patio is in addition to the maximum Gross Leasable Floor Area requirement that may be prescribed to the business in the zone that the parcel lies;
 - ii) An Outdoor Patio within a side or rear yard shall be located a minimum of 1 metre from the lot line;
 - iii) An Outdoor Patio permitted within a front yard and/or flankage shall have a minimum 0 metre setback to the street line; and
 - iv) An Outdoor Patio shall not encroach onto or impact a required parking space on the lands and shall be a minimum 3 metres away from any loading space and 1 metre away from any parking space, parking aisle or driveway.
- 3) Every Outdoor Patio area shall be operated in compliance with all applicable regulations, guidelines, orders, and/or directives published by the Ontario Ministry of Health and Long-Term Care, the Chief Medical Officer of Health, and/or by the Medical Officer of Health for the Region of Waterloo.
 - 4) The business owner is responsible for obtaining all relevant permissions, including but not limited to licenses and permissions from the AGCO, Building Permits, the Region of Waterloo Patio Guidelines (for Outdoor Patios on Regional Roads), the Township's Infrastructure Services (for Outdoor Patios on Township road), and their landlord.
 - 5) The business owner of an Outdoor Patio shall mitigate any negative impacts on abutting or nearby commercial or residential development; including prioritizing the use of private land before utilizing public space.
 - 6) Music (that does not disturb others) is permitted as per the Township Noise Bylaw.
 - 7) The Outdoor Patio (including the patio space, fencing, and pedestrian access into and around the patios) shall be compliant with the Accessibility for Ontarians with Disabilities Act (AODA).
 - 8) The business owner shall provide a sufficient accessible route on the sidewalk to accommodate a clear, unobstructed width of 1.83 metres (6 feet); be maintained in a straight line within a street block and located at least 0.5 metres (21 inches) from the curb.
 - 9) Outdoor Patio space cannot impede the use of accessible parking and accessible paths of travel.
 - 10) Each business shall have priority to the available space within its own property / unit frontage and an Outdoor Patio cannot extend into the sidewalk frontage of a neighbouring business if that business objects.

- 11) Umbrellas, if used within the Outdoor Patio, must stand at least 2.1 metres (7 feet) above the walking surface.
- 12) Any Outdoor Patio shall be in full compliance with the Ontario Fire Code (OFC), including but not limited to:
 - a) Combustibility of materials (i.e. placement of wooden or plastic tables, cloth coverings for tables burnable aesthetics of table coverings, posters or large signage used etc.) – Div. B, Sentence 2.4.1.1.(1) of the OFC – at times, such accumulation may occur after the event where these items may be stored next to a building for the next day's or time's usage.
 - b) Appliances for open flames – generally used of heating or ambiance – may not be placed/positioned/installed in accordance to manufacturer's recommendations depending upon the configuration of the pop-ups – Div. B, 2.4.4.4.(2) of the OFC.
 - c) Open flames (candles or other devices upon pop-up tables) – if used – must be properly supported in non-combustible holders and may be subject to dislodging due to certain weather conditions (wind, table shift or movement etc.) – Div. B, Article 2.4.4.3. of the OFC.
 - d) A fire extinguisher (minimum 2A-10BC) must be available within 23 metres (75 feet) of any part of the temporary patio.
 - e) Cooking or food and drink preparation shall take place within the restaurant and is not permitted on any temporary patio, unless authorized by Public Health and the Township Fire Department.
 - f) A minimum 1.5 metres (5 feet) clearance from fire department connections and hydrants must be maintained on a temporary patio.
 - g) No open flame is permitted within a temporary patio enclosure (i.e., tent/cover/ or similar structures). Only TSSA, ESA or CSA approved outdoor heating and electrical devices are permitted within a tent/cover/dome/structure.
- 13) Any exit gates must open easily outward, but not into traffic, from the Outdoor Patio during hours of operation.
- 14) Temporary Outdoor Patio enclosure (tents/covers/or similar enclosures):
 - Sized 10 square metres (108 square feet) or less are allowed within the temporary Outdoor Patio boundary without a permit and can abut a building.
 - A tent or group or tents may be exempt from the requirement to obtain a permit under Section 8 of the Act and is exempt from compliance with the Code provided that the tent or group of tents are:
 - i) not more than 60 m² in aggregate ground area,
 - ii) not attached to a building, and
 - iii) constructed more than 3 m from other structures.
 - Temporary Outdoor Patio enclosures are to be away from buildings in all cases.
 - If more than one temporary Outdoor Patio enclosure is installed, they must be 3 metres (9 feet 10 inches) apart from each other, including from neighbouring establishment's temporary Outdoor Patio enclosures.
 - For temporary Outdoor Patio enclosures larger than 10 square metres (108 square feet), contact Building Services to determine if a permit is required.

- Any temporary Outdoor Patio enclosures cannot impede the flow of pedestrian traffic on Township owned land and must be approved by the Public Health Unit.
 - Any temporary Outdoor Patio enclosure must also have an exit that meets Building and Fire Code regulations and must open freely outward.
- 15) The combined indoor and outdoor dining/seating capacity of all Outdoor Patio shall not exceed the capacity for the establishment's washrooms as determined by the Ontario Building Code. If the Ontario Building Codes permits an outdoor portable washroom(s) based on the indoor and outdoor dining/seating capacity of the business, then such outdoor portable washroom(s) shall:
- be located within the rear yard,
 - be minimum of 3 metres from any lot line,
 - be minimum of 7.5 metres to a residential zoned limit, and
 - only be seasonal for a maximum time period of 6 months in a calendar year.
- After the 6 months has elapsed, the portable washroom(s) shall be removed, and the seating/dining capacity of the indoor and outdoor seating for the business shall be reduced accordingly to satisfy the Ontario Building Code requirements.
- 16) Any Outdoor Patio shall be protected from any loading space, parking space, parking aisle or driveway with the appropriate barriers or fencing or planters as per the Fencing Section below and approved by the Township.
- 17) The business owner is responsible for maintaining any structures and equipment for the Outdoor Patio in a safe and clean condition and in good repair.
- 18) Outdoor Patio must not impede access to or visibility of adjacent tenant spaces or exits.
- 19) Temporary Outdoor Patios must comply will all other applicable Township By-laws including:
- a) Parking shall be provided based on the Gross Leasable Floor Area building containing the Business and not its accessory Outdoor Patio, however, the Outdoor Patio area cannot consume or encumber the required parking space for that business.
 - b) Site plan addendum or agreement may not be required at the discretion of the Township. Any Outdoor Patio that does not require Site Plan approval shall at a minimum obtain a Zoning Compliance Certificate issued with an attached and approved site plan to the satisfaction of the Manager of Planning. This shall include but not limited to addressing the following on the site plan: identifying snow storage, accessible parking spaces, existing and proposed, walkways, fencing (Clauses 29 to 37) are adequately addressed.
- 20) A separate building permit will be required for any platform/deck or ramp construction associated with the Outdoor Patio. Applicants wishing to construct platforms/decks or any ramps over 200mm (8.5 inches) will be required to submit Engineer stamped drawings of the platform/deck.

- 21) No Outdoor Patio on private property shall be permitted unless issued a Zoning Compliance Certificate by the Township of Woolwich and that any required fencing or other works have been installed.

On-street Outdoor Patios

In addition to the above, the following requirements apply for temporary Outdoor Patios located in or adjacent to an active travel lane (including parking stalls) on a Township Road Allowance, or on Township land. For Outdoor Patios within a Regional Road Allowance or Regional property, refer to the Region of Waterloo Temporary On-Street Parking/Pop-up Patio Guidelines (“Regional Patio Guidelines”).

- 22) If the Outdoor Patio is located on Municipal property, the applicant must be the owner of the business and must provide proof of commercial general liability insurance (\$2 million) coverage endorsed to include the Township as additional insured.
- 23) Setup or takedown of any structure or materials on an active public roadway or parking stalls can only be completed by Township staff trained and qualified in the OTM Book 7. Applicants for on-street Outdoor Patios are not permitted to install their Outdoor Patio until the Township has completed the installation of appropriate road closure barriers.
- 24) If located on Township property (public sidewalk or public parking spot), the temporary Outdoor Patio shall be located a minimum of 1 meter (3 feet 3 inches) away from any Township-approved parking stall or road closure barrier.
- 25) A temporary Outdoor Patio on Township property shall not be permitted unless authorized by the Township of Woolwich Director of Infrastructure Services. However, Outdoor Patio on a public sidewalk or public parking spot are not permitted:
- a) on streets with a speed limit over 50 km/h;
 - b) within 5 metres (16 feet 5 inches) of the corner of an intersection; and
 - c) within 5 metres (16 feet 5 inches) of the corner of an intersection that has a stop/yield sign or a pedestrian crosswalk;
- 26) Temporary traffic controls are required where the Outdoor Patio interferes with the movement of people, cyclists or vehicles or encroaches on loading zones, accessible parking spaces, tow away zones, bus stops or bike lanes.
- 27) Ramps are to be used where a sidewalk and the Outdoor Patio are separated by a curb. For a curb that is under 200mm (8.5 inches), the following should apply:
- a) The maximum slope of ramp would be 1:10.
 - b) A minimum width of 1.5 metres (4 feet 11 inches) exclusive of flared sides.
 - c) Have a surface including flared sides that is:
 - i) slip-resistant,
 - ii) a detectable warning surface with colour (peel and stick),
 - iii) texture that is contrasted with the adjacent surfaces (tape at top and bottom), and

- iv) a smooth transition (.25 inches) from the ramp and adjacent surfaces, and If a ramp over 200mm (8.5 inches) is required, contact Building Services as a building permit may be required.

Fencing

All outdoor patio area must be identifiable through the use of barriers which may include fencing or planters.

- 28) Barriers must be at least 0.75 metres (2 feet 6 inches) high.
- 29) The fencing must be weighted either footplates or stable mass planter boxes provided they are not damaging any public property, are not be designed to penetrate the surface of the sidewalks (i.e. no bolts/brackets) and are secured without endangering any underground utilities.
- 30) Foot plates must have a rigid horizontal member on the bottom portion that must be within 680 mm (2 feet 2.5 inches) from the ground, and do not overhang the accessible route on public sidewalks.
- 31) That fencing and other barriers are high contrast to the surrounding area.
- 32) Fencing material must be shown on the drawings/sketch.
- 33) Self-supporting plates shall have no parts of the fence create a trip hazard and shall not project beyond the limits of the permit area.
- 34) Fencing shall not extend past the permitted area, or be attached to trees, street elements or utilities.
- 35) Fencing shall not obstruct vehicular/pedestrian sightlines/fire routes.
- 36) The outdoor patio area shall not:
 - a) Obstruct underground utility access, electrical transformer vaults, utility boxes, parking meters, loading zones, active transit stops and other infrastructure.
 - b) Damage Township-owned or private trees in an effort to design, construct, maintain or operate the temporary patio.
 - c) Conflict with existing pedestrian crossings.
 - d) Permit smoking, pursuant to the Smoke-Free Act and 'no smoking' signage shall be posted at the entrance/exit.
 - e) Obstruct stormwater flows or block stormwater drains. The applicant shall be responsible for clearance of any debris and overall maintenance to ensure free flow.