



<b>Policy Name: Temporary Outdoor Patio on Municipal or Private Property</b>	<b>Policy No: S201-04</b>
Committee approval date:	
Council approval date:	March 4, 2013
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Department/Division:	Council

## 1. Purpose

1.1. The purpose of this policy is to provide application requirements and regulations for:

1.1.1. Temporary Outdoor Patio – Municipal Property

1.1.2. Temporary Outdoor Patio – Private Property

## 2. Policy Statement

2.1. This policy governs temporary outdoor patios on public or private property. This policy aims to support the economy while minimizing public interference and ensuring all health and safety requirements are met.

## 3. Definitions

“**AGCO**” means the Alcohol and Gaming Commission of Ontario.

“**Temporary Outdoor Patio**” means an outdoor seating area which operates as a seasonal extension accessory to the primary business of food and/or beverage service.

“**Town**” means the Corporation of the Town of Pelham.

## 4. General Provisions – Municipal and Private Property

4.1. Temporary Outdoor Patios shall comply with applicable smoking legislation and all other Federal, Provincial and Municipal legislation.



- 4.2. Temporary Outdoor Patios shall be kept in good repair in a safe and secure condition.
- 4.3. Temporary Outdoor Patios shall maintain barrier-free access and comply with the *Accessibility for Ontarians with Disabilities Act, 2005* S.O. 2005, c. 11 and any applicable Regulations thereto.
- 4.4. Entrances to Temporary Outdoor Patios shall be open, unobstructed, and fully accessible to persons with disabilities, being 1.1 metres (3'7") and must comply with Ontario Building Code requirements, or the width of the patio entrance, whichever is greater.
- 4.5. Temporary Outdoor Patios shall only be established in locations where they do not obstruct required access to public utilities, service connections and access for emergency vehicles, and must be removable if emergency access is required.
- 4.6. Lands intended for Temporary Outdoor Patios must conform with applicable Zoning By-law requirements.

## **5. Temporary Outdoor Patio – Municipal Property**

### **5.1. General Design Principles**

- 5.1.1. The use of Town-owned land, including sidewalks and boulevards for use of a Temporary Outdoor Patio will be limited to the period of April 15<sup>th</sup> to October 31<sup>st</sup>.
- 5.1.2. The location and design of the Temporary Outdoor Patio shall strive to maintain the primacy of the public right-of-way for pedestrian and/or vehicular movement.
- 5.1.3. Temporary Outdoor Patios shall not create visibility or sightline obstruction to pedestrian or vehicular traffic.
- 5.1.4. Temporary Outdoor Patios shall not significantly obstruct on-street parking and shall comply with O. Reg 413/12 regarding maintenance of parking access aisles, and other necessary delivery access to private and public buildings.



5.1.5. Residents living adjacent to a Temporary Outdoor Patio should be ensured a measure of privacy and separation.

5.1.6. No material shall project into the pedestrian or vehicular travelled portion.

5.1.7. Planter boxes are encouraged and must be contained within the approved Temporary Outdoor Patio area. Planter boxes shall be removed outside of the permitted period.

5.1.8. Except for municipally owned trees, permanent planting of trees or shrubs is not permitted in the Temporary Outdoor Patio area.

5.1.9. Waste receptacles should be situated away from the public sidewalk or boulevard.

## **5.2. Perimeter Fencing**

5.2.1. Temporary Outdoor Patios must have a rigid barrier system which clearly delineates the patio area from pedestrian traffic. In certain circumstances, a second fixed barrier system may be required to separate pedestrian traffic from vehicular traffic. Costs associated with the installation and/or removal of the barrier shall be borne by the business owner.

5.2.2. Perimeter fencing should appear “open” and consist of materials complementary to Urban Design Guidelines and should be of a high-quality finish, compatible with the streetscape.

5.2.3. Perimeter fencing should be placed to permit sufficient clearance from any street furnishings such as trees, light standards, trash receptacles and benches in accordance with the applicable accessibility standards.

5.2.4. Perimeter fencing shall not penetrate the surface of the sidewalk or boulevard.

5.2.5. Perimeter fencing shall be situated to allow for unobstructed access to fire hydrants and pumper connections. Pumper connections on the side of a building shall remain clearly visible from the street view.



5.2.6. Material shall not be stored on municipal property outside of the permitted period.

5.2.7. Failure to remove perimeter fencing outside of the permitted period will result in the Town removing it at the business owner's expense. This action may affect future approvals for a Temporary Outdoor Patio Permit.

### **5.3. Umbrellas, Awnings and Furnishings**

5.3.1. The design and construction of awnings shall be in accordance with Town By-laws and may be subject to a building or sign permit.

5.3.2. Umbrellas and/or awnings must be retractable.

5.3.3. The lowest point of an awning shall be at least 2.34 metres (7'-8") above the sidewalk or boulevard floor and shall be installed in accordance with all applicable Town By-laws to the satisfaction of the Fire Chief.

5.3.4. A building permit is required for awnings if over 108 ft<sup>2</sup>, or if attached to a building.

5.3.5. Awnings encroaching onto municipal property will be subject to an encroachment agreement.

5.3.6. Umbrellas must be free-standing and may either pass through the centre of tables and be sufficiently bottom-weighted or be free-standing and sufficiently stable to withstand local wind conditions, and when open, cannot exceed beyond the patio area.

5.3.7. Furnishings must be easily removable and shall not be permanently attached to the wall of the abutting building or the perimeter fence.

5.3.8. Furnishing must be contained within the perimeter of the patio area.

5.3.9. Failure to remove furnishing outside of the permitted period will result in the Town removing it at the business owner's expense. This action may affect future approvals for a Temporary Outdoor Patio Permit.



5.3.10. Furnishing shall be situated to allow for unobstructed access to fire hydrants and pumper connections. Pumper connections on the side of a building shall remain clearly visible from the street view.

#### **5.4. Grading**

5.4.1. Temporary Outdoor Patios shall be level with the adjoining sidewalk or boulevard to allow for unobstructed access.

### **6. Temporary Outdoor Patio – Private Property**

#### **6.1. General Principles**

6.1.1. Temporary Outdoor Patios may only operate for a maximum of eight (8) months per calendar year.

6.1.2. Upon obtaining approval from the municipality, the applicant is required to notify the AGCO before selling or serving liquor on the Temporary Outdoor Patio. This notification must include:

- a. The start date that liquor will be sold and served on the temporary patio;
- b. How many months per year you have been approved to operate the temporary patio;
- c. The months that you intend to operate the temporary patio;
- d. The expiry date of your approval (if applicable);
- e. A description of the location and dimensions of the temporary patio;
- f. Any conditions specified on the approval by the municipality or Band Council.

6.1.3. The establishment shall abide by the *Liquor Licence and Control Act, 2019*, its regulations, the Registrar's Interim Standards and Requirements for Liquor, Town By-laws, and policies, as well as any conditions imposed upon



the liquor licence and Temporary Outdoor Patio approval.

## **7. Signage and Advertising**

7.1. Signage and advertising shall comply with the Town of Pelham Sign By-law, as amended.

7.2. The establishment name may appear on awning(s) or umbrella(s).

7.3. Menu displays may be attached to the building wall of the main establishment, but may not obstruct entrances, sidewalks, or boulevards.

## **8. Commercial General Liability Insurance**

8.1. The Permit Holder shall obtain and maintain in full force and effect one or more policies of Commercial General Liability insurance underwritten by insurers licensed to conduct business in the Province of Ontario with aggregate limits of not less than five million dollars (\$5,000,000) per occurrence. The policy or policies shall include coverage for bodily injury, death, personal injury and property damage and shall contain cross-liability and severability of interest clauses. The policy or policies shall name the Town of Pelham as an additional insured and contain an undertaking by the insurer(s) to give thirty (30) days prior written notice to the Town of Pelham of any material change to the coverages provided and/or the cancellation or expiry of the said policy or policies.

8.2. The Permit Holder shall defend, indemnify and save harmless the Town of Pelham its elected officials, officers, employees and agents from and against any and all claims of any nature, actions, causes of action, losses, expenses, fines, costs (including legal costs), interest or damages of every nature and kind whatsoever, including but not limited to bodily injury, sickness, disease or death or to damage to or destruction of tangible property, and any consequential losses, arising out of or in any way attributable to the conduct of the Permit Holder, its directors, officers, employees, agents, contractors or any other person for whom it is in law responsible, in connection with or in any way related to the issuance or existence of this Permit or anything done or not done in accordance with or contrary to this Permit. This indemnity shall be in addition to and not in lieu of any insurance to be provided by the Permit Holder in



accordance with the conditions of the Permit.

## **9. Temporary Outdoor Patio Permit Application Requirement(s)**

9.1. Application for a Temporary Outdoor Patio on municipal or private property shall contain the following supporting documentation:

9.1.1. Application fee in accordance with the Town of Pelham Fees and Charge By-law, if applicable.

9.1.2. Proof of property ownership. Tenants must provide the property owner's written endorsement.

9.1.3. Site Plan, to scale, including but not limited to:

- a. Size and location of all entrances and exits from the patio;
- b. Size of patio, including proposed table/chair layout;
- c. Location and elevation of the perimeter fence enclosure;
- d. Location of the patio as it relates to the existing building and any fire access routes for the property;
- e. Location of street, sidewalk, property lines, utility poles, fire hydrants and trees;
- f. Size and location of encroachment onto municipal property, if applicable.

9.1.4. Liquor Licence issued by the AGCO, if applicable.

9.1.5. Commercial General Liability insurance (refer to section 8).

9.1.6. A Fire Safety Plan may be required.