



## Town of Niagara-on-the-Lake

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**REPORT #:** CDS-23-005 **COMMITTEE DATE:** 2023-01-24  
**REPORT TO:** COTW-General **DUE IN COUNCIL:** 2023-01-31  
**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:**



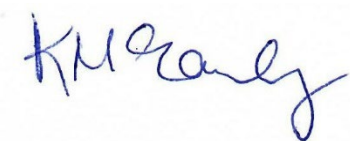
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# The Town of Niagara-On-The-Lake

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<b>Report:</b>	<b>CS-20-013</b>	<b>Committee Date:</b>	
		<b>Due in Council:</b>	June 22, 2020
<b>Report To:</b>	<b>Lord Mayor and Council</b>		
<b>Subject:</b>	<b>Temporary Patio Extensions</b>		

## 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  $1.11 \text{ m}^2$ . (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  $1.11 \text{ sq. m.}$  (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  $60\text{m}^2$  (645 sq. ft.).
  - A group of tents in aggregate area and are closer than 3m apart with a combined area of  $60\text{m}^2$ .
  - The tent is within 3m of an existing structure and exceeds an area of  $60\text{m}^2$
  - 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**

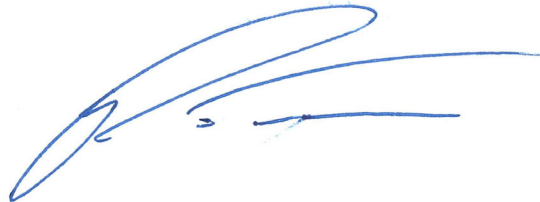
The program has commenced in order to start processing applications as expediently as possible. Communication has been provided to businesses through the Town's website and social media accounts. Town staff have already accepted and processes a number of applications. Permits will be provided to all 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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<b>Report:</b>	<b>CS-21-008</b>	<b>Committee Date:</b>	<b>April 19, 2021</b>
		<b>Due in Council:</b>	April 26, 2021
<b>Report To:</b>	<b>Corporate Services Advisory Committee</b>		
<b>Subject:</b>	<b>2021 Temporary Patio Program</b>		

## 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,



**Peter Todd**  
**Town Clerk**



**Kyle Freeborn, CPA, CMA**  
**Director, Corporate Services**



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

**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<sup>2</sup>. (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<sup>2</sup> (645 sq. ft.).
  - A group of tents in aggregate area and are closer than 3m apart with a combined area of 60m<sup>2</sup>.
  - The tent is within 3m of an existing structure and exceeds an area of 60m<sup>2</sup>
  - 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**

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

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## 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-Picton 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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First Capital of Upper Canada - 1792



# The Town of Niagara-On-The-Lake

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L0S 1T0

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

## 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**

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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](#)

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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"> <li>• Barrier-free access and egress must not be compromised.</li> <li>• The deck (floor structure) must have a flush transition at the sidewalk and curb to permit easy access and avoid tripping hazards.</li> <li>• The sub-structure must accommodate the crown of the road and provide a level surface for the deck (floor structure).</li> <li>• The deck must be constructed of a slip-resistant surface.</li> <li>• A minimum of 20% of table must be accessible to persons using mobility aids but no less than one table in the outdoor eating area</li> <li>• Ground surface leading to and under accessible tables must be level, firm and stable</li> <li>• Clear ground space around accessible tables allows for a forward approach</li> <li>• Any gates must swing into the patio space and not obstruct the sidewalk or street.</li> </ul>	<p><b>Accessibility</b> 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"> <li>• Temporary patios shall only be permitted for existing restaurants, bars, and other food and drink establishments (e.g. wineries, breweries, and distilleries).</li> <li>• 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.</li> <li>• 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.</li> </ul>	<p><b>Community &amp; Development Services (Planning)</b> 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"> <li>• The patio must not interfere with proper drainage of the roadway (curbs/catch basins in the immediate area must be free of obstructions).</li> <li>• 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.</li> </ul>	<p><b>Operations</b> 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"> <li>• 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.</li> <li>• A minimum sidewalk width of 2.4 m should be maintained where possible.</li> <li>• The temporary installations must provide a minimum of 0.3 metres (12") from the travelled portion of the roadway.</li> <li>• The patio should maintain that a minimum width of 4.5 m from the edge of the patio /to the street centerline.</li> <li>• No umbrellas or other treatments can extend into the sidewalk or travelled portion of the roadway.</li> </ul>	<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"> <li>• The patio should not interfere with the ability of first responders to access any buildings.</li> <li>• Patios are not to be constructed in Fire Access Routes.</li> <li>• A minimum of 1.5m (5ft) clearance from fire department connections and hydrants must be maintained on a temporary patio.</li> <li>• A fire extinguisher (minimum 2A-10BC) must be available within 15.2 m (50ft) of any part of the temporary patio.</li> <li>• 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.</li> <li>• 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.</li> </ul>	<p><b>Fire and Emergency Services</b> 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"> <li>• For non-licensed establishments, the capacity of the temporary patio shall not exceed the posted occupancy of the main building.</li> <li>• 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<sup>2</sup>. (12.0 sq ft) per person, whichever is the lessor.</li> <li>• 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.</li> <li>• If the patio includes the use of a tent or temporary, portable structure consistent with the content of the Ontario Building</li> </ul>	<p><b>Community &amp; Development Services (Building)</b> 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"> <li>• The tent exceeds an area of 60m<sup>2</sup> (645 sq. ft.).</li> <li>• A group of tents in aggregate area and are closer than 3m apart with a combined area of 60m<sup>2</sup>.</li> <li>• The tent is within 3m of an existing structure.</li> <li>• The structure is attached to a building.</li> <li>• Railings and vertical elements should be a minimum of 0.91 metres (36") and no higher than 1.07 metres (42") in height.</li> <li>• Cooking of food and drink preparation is not permitted on temporary patios.</li> <li>• Tables shall not exceed a height of 0.865 metres (34") above the finished floor of a patio (deck).</li> </ul>	
<ul style="list-style-type: none"> <li>• Owners shall provide their liquor license, if requested by any Municipal Officer.</li> <li>• 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.</li> <li>• Operators must adhere to the Town's Noise By-law No. 4588-12, as amended.</li> </ul>	<p><b>By-law</b> Confirm appropriate authorization for inspections and compliance.</p>
<ul style="list-style-type: none"> <li>• The design is to include fencing to define the space.</li> <li>• Decorative free-standing flower pots or planting boxes are encouraged to be included in any design.</li> <li>• Decorative free-standing flower pots or planting boxes are encouraged.</li> <li>• Patios be constructed of wood or metal rather than plastic.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> </ul>	<p><b>Urban Design Committee</b> 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"> <li>• 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.</li> <li>• That non-branded umbrellas be used exclusively. If shade is required then non-branded pergolas and umbrellas are used instead of tents.</li> <li>• 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.</li> </ul>	<p><b>Municipal Heritage Committee</b> 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.

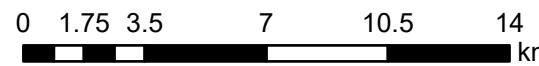




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### Legend

Road Labels  Urban Area Boundaries  Municipal Boundaries

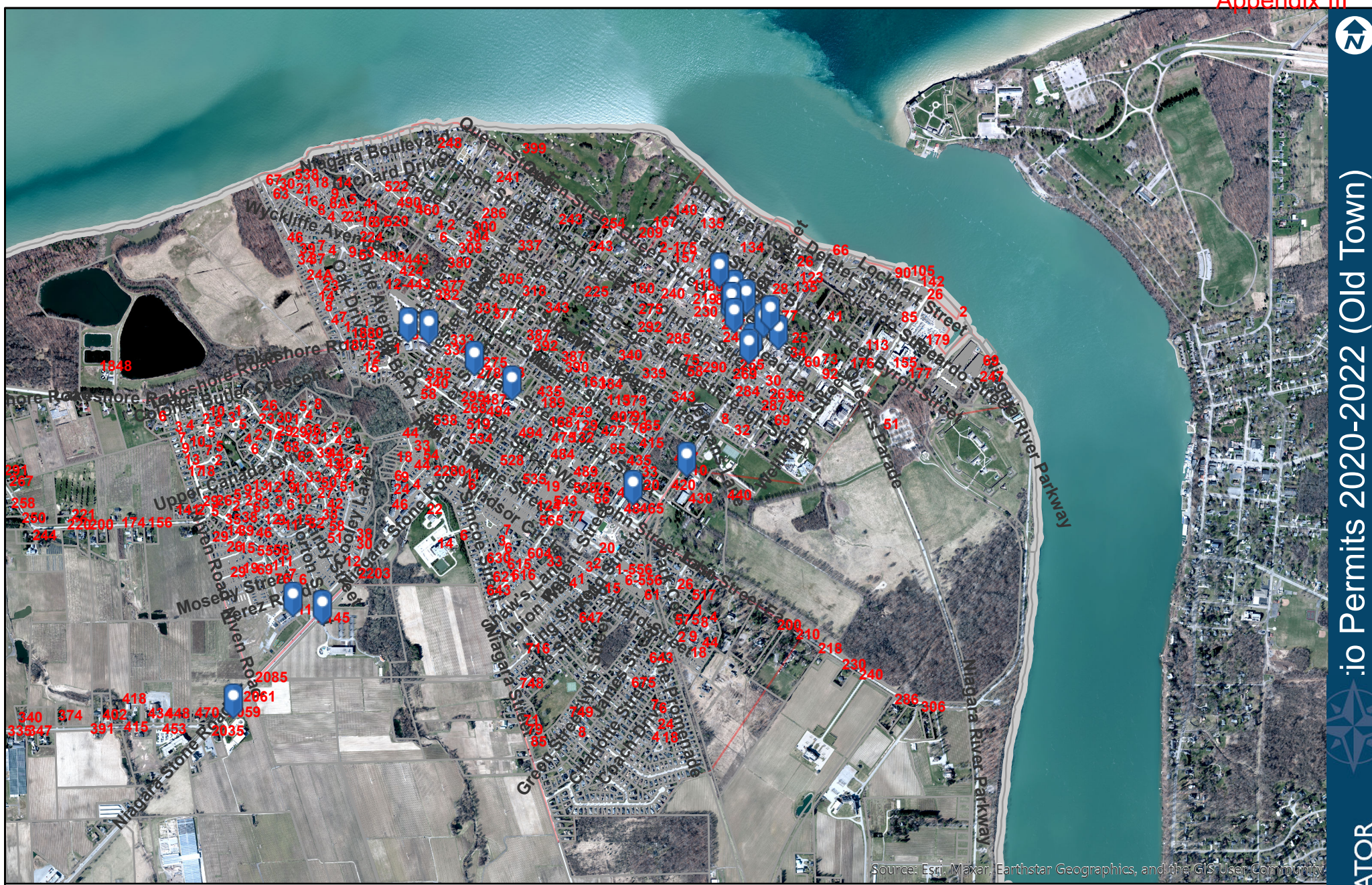


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:io Permits 2020-2022 (Old Town)

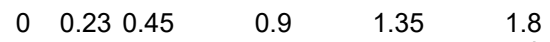


NAVIGATOR



### Legend

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



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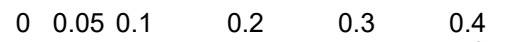




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### Legend

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

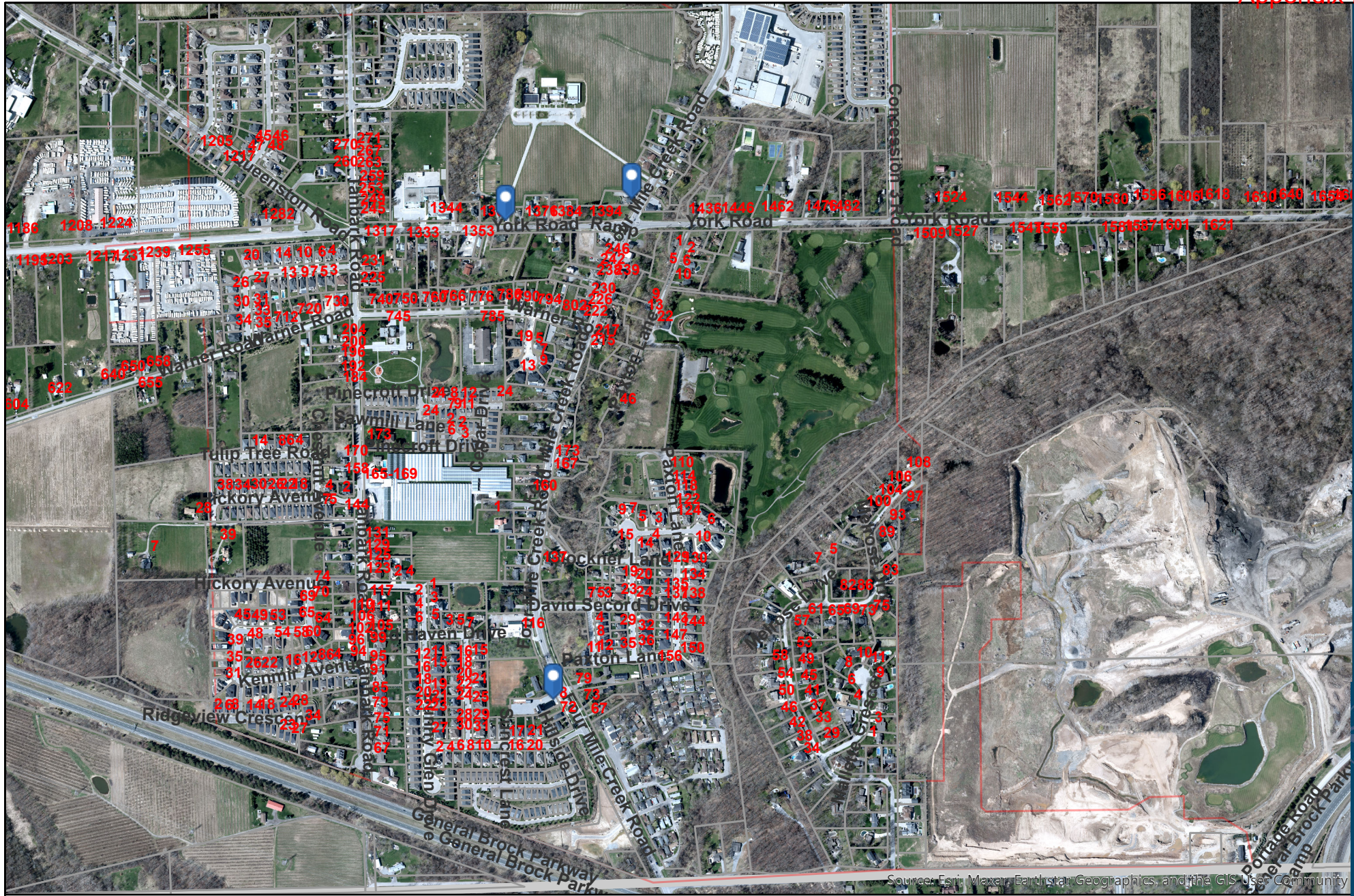


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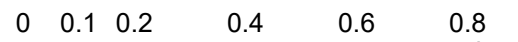


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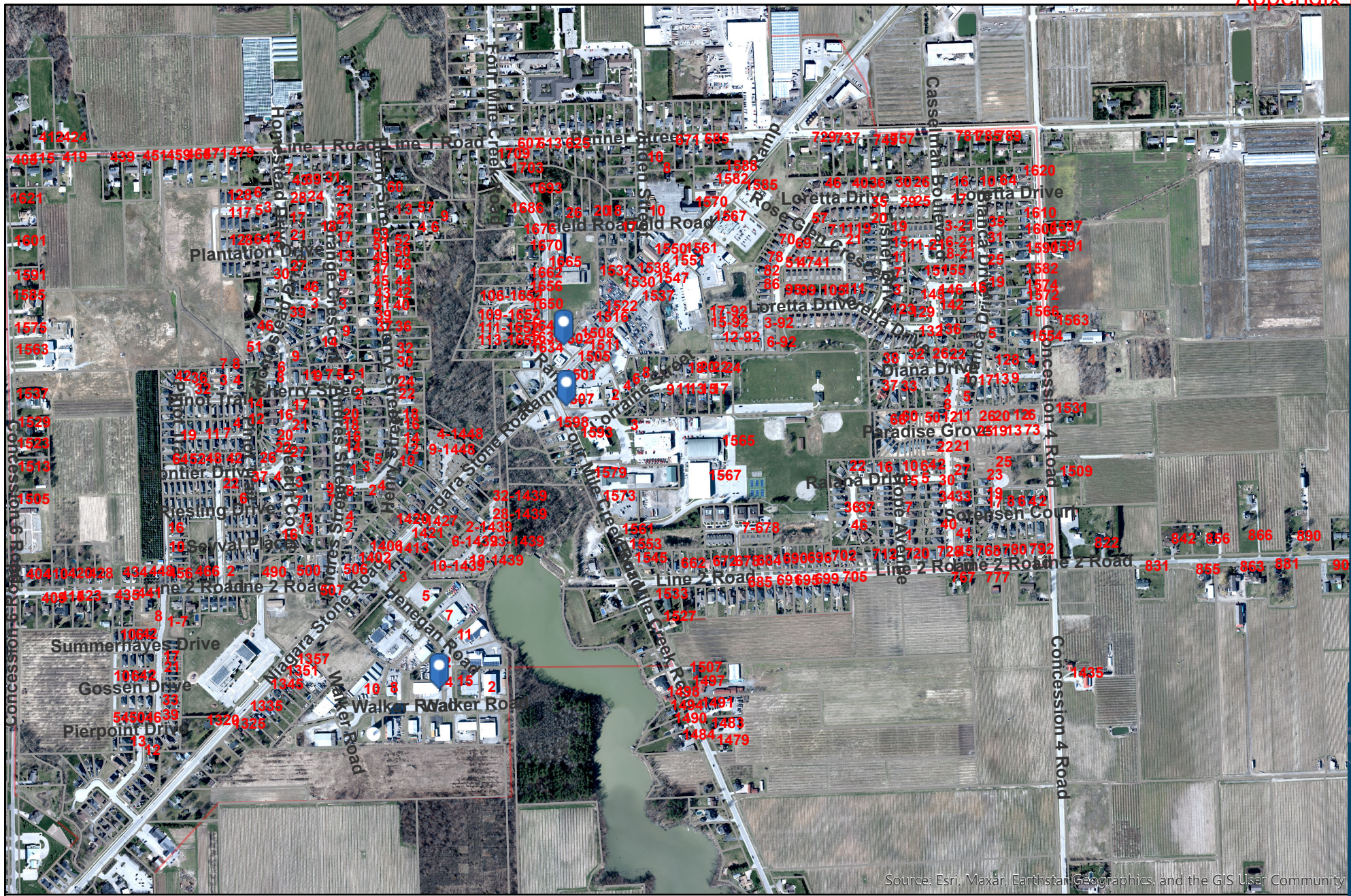
- Parcels
- 1234 Housetnumber
- Municipal Boundaries
- York Road Road Labels
- Urban Area Boundaries



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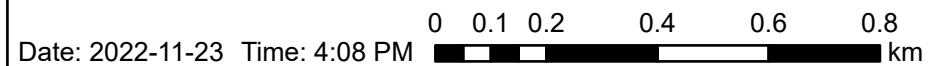




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### Legend

- Parcels
- 1234 House number
- Municipal Boundaries
- Line 1 Road Road Labels
- Urban Area Boundaries



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