



Town of Niagara-on-the-Lake

1593 Four Mile Creek Road
P.O. Box 100, Virgil, ON L0S 1T0
905-468-3266 www.notl.com

REPORT #: CDS-25-012

COMMITTEE DATE: 2025-01-14

DUE IN COUNCIL: 2025-01-28

REPORT TO: COTW-Planning

SUBJECT: Patio Program Review Update

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Council **RECEIVE** the draft design parameters and applicant guide, attached as **Appendix II**; and
- 1.2 Council **ENACT** the Temporary Use Zoning By-law, attached as **Appendix I** to this report, to be extended until December 31, 2025, and forward to Council for adoption.

2. EXECUTIVE SUMMARY

- The Town's Temporary Patio Program was established in 2020 to support local restaurants, and other food and drink establishments in their efforts to provide safe outdoor dining experiences during the COVID-19 pandemic. At the time, the Town created general guidelines for design and requirements for a Temporary Patio Program, intending to do a fulsome review later.
- Council extended the Temporary Patio Program in 2021, 2022, 2023 and 2024. The current Temporary Use By-law for the patio program expires on February 28, 2025.
- In January 2024, Town Council directed Staff to review and produce a report about a permanent Seasonal Patio Program.
- Town Staff have been working with a consultant, Landwise, to complete the final phases of the review.
- All input and feedback received to-date has been considered, and a draft Application Guide has been prepared (attached as **Appendix II** to this report).
- Additional public engagement on the draft Applicant Guide will occur. The Applicant Guide will be available on the Town's website, as well as advertised through the Town's social media pages, for review and feedback from the public. Town Staff will also conduct a Focus Group with current and past patio operators in the coming weeks.
- To allow time to finalize the Application Guide and proceed with the associated planning processes, Staff recommend that Council approve an extension to continue permission for the existing Temporary Patio Program through adopting a Temporary Use By-law (**Appendix I**).

3. PURPOSE

The purpose of this report is to provide Council with an update on the Temporary Patio Program review and establishment of a permanent Seasonal Patio Program.

For the purposes of clarity, please note the following regarding the Program names:

“Temporary Patio Program” – the current Town Patio Program is titled the “Temporary Patio Program.” This Program is implemented through Temporary Use By-law; this By-law requires annual approval by Council. The Temporary Patio Program is temporary in nature, as there are no policies in place to permit the Program on an annual basis without yearly Council approval.

“Seasonal Patio Program” – the proposed name of the Town Patio Program, should Town Council establish an ongoing, permanent Program. Reference to the term “permanent” in this instance refers to the way in which the Program is implemented; the patios will not remain on a permanent basis, they will require removal in the winter. If Council is supportive of the Seasonal Patio Program, Staff would undertake a Zoning By-law Amendment to implement the Program. The permission for the Program through this Amendment process would implement a “permanent” program that would not require Council approval on a yearly basis. Staff are proposing to rename the Patio Program to the “Seasonal Patio Program” to better reflect the permissions for patios (i.e., they are only permitted on a seasonal basis).

4. BACKGROUND

The current Temporary Patio Program was implemented in 2020, and has not changed regarding its implementation or requirements. Town Staff have brought multiple reports to Council regarding the current Temporary Patio Program, to receive direction regarding next steps.

A Staff Report was provided to Council, during the Committee of the Whole-General Meeting on January 16, 2024, in response to Councillors’ requests to address details such as fees, patio locations, limitations on the number of patios, parking, application process, and patio requirements. As part of this report, Staff recommended to permit the continuation of temporary patios within the urban area only, and no longer permit temporary patios outside of the urban area. The rationale to remove temporary patio permissions for properties in the rural and agricultural areas of the Town was discussed in Staff Report CDS-23-205, presented to the Committee of the Whole-General on November 14, 2023. Such rationale includes reference to possible conflict with Provincial, Regional and Town planning policy direction and objectives, and private servicing requirements.

At the January 16, 2024, Committee of the Whole-General Meeting, the following was approved:

- Staff be directed to prepare a permanent program for Seasonal Patios for food and drink establishments within the urban area, including all necessary documentation and application requirements; and,
- Staff be directed to bring forward a by-law to extend the Temporary Use By-law within the **urban area only** until February 28, 2025, to allow patios in 2024 and provide time to establish the Seasonal Patio Program. (emphasis added)

At the Council Meeting on February 27, 2024, the following additional motion was approved:

- That no new Temporary Patio permits be issued for Queen Street until Staff bring forward a permanent patio program for seasonal patios and Council has approved their recommendations.

Based on the above, the Temporary Patio Program for 2024 permitted patios only within the urban area, and no patio permits were issued for new patios on Queen Street.

In March 2024, Staff outlined the following work plan and requirements for the patio program review going forward (Report No. CDS-24-046):

Component	Required Action
Amendment required to Town Zoning By-law 4316-09, as amended, including the details of the Seasonal Patio Program (e.g., seasonal basis, setback requirements, etc.)	<ol style="list-style-type: none"> 1. Town Planning Staff to provide notice of the Zoning By-law Amendment in the local newspapers 2. Planning Staff hold an Open House, facilitated by Staff in which members of the public can ask questions of clarification related to the amendment 3. Planning Staff hold a statutory Public Meeting during a Committee of the Whole – Planning Meeting, associated with a Staff Information Report to Committee. 4. Planning Staff prepare a recommendation report and amendment to be presented for decision at Committee and Council. 5. Planning Staff provide notice of the decision to the public, through a notice in the local newspapers. The decision of Council is subject to an appeal period.
Revise the Minimum Design Standards	<ol style="list-style-type: none"> 1. Planning Staff prepare revisions to the Minimum Design Standards, requiring consultation with various staff/departments. Input received through initial review to be incorporated. 2. Urban Design Committee reviews and provides feedback on the Minimum Design Standards. 3. Municipal Heritage Committee reviews and provides feedback on the Minimum Design Standards. 4. Planning Staff incorporate the recommendations of the Committees into the revised Minimum Design Standards. 5. Post draft Minimum Design Standards on the Town's webpage for public commenting period. Provide media release. 6. Finalize Minimum Design Standards.
Establish Fees for Patio Permits, Encroachments and Occupying Municipal Parking Stalls	<ol style="list-style-type: none"> 1. Town Staff perform a municipal scan of current temporary patio programs within southwestern Ontario to update the 2023 municipal scan for the purposes of fee collection. 2. Town Staff, in conjunction with Operations and Finance, establish fees for patio permits, encroachments of patios onto public lands, and fees for patios which occupy municipal parking stalls.
Establish Regular Maintenance Provisions	Town Operations Staff to create regular maintenance provisions for temporary patios, associated with cleaning of debris on, around and under the patios, and ensuring clear stormwater catch basins.

Component	Required Action
Insurance Updates	Town Finance Staff to review and update the current insurance requirements related to temporary patios, to require that patio owners, with patios wholly on private property, submit a Certificate of Insurance for the duration of the permit.
Create an Encroachment Template Form	<ol style="list-style-type: none"> 1. Town Clerks and Operations Staff to create an Encroachment Template Form, to address instances when a temporary patio encroaches within the lot frontage and/or lands of an adjacent property and/or owner. 2. Town Staff to establish maximum encroachment provisions.
Establish an Applicant Guide	<p>Town Planning Staff to create an Applicant Guide, which implements and provides information on all the above steps, including:</p> <ul style="list-style-type: none"> • Providing more clarity to business owners regarding the application process, submission requirements and timelines; • Providing a sample site plan, including all details necessary to review permit applications; • Establishing a formal intake date for applications; • Establishing a season for temporary patios. Patios requested outside of this season, would be required to apply to the Town for a Special Event Permit; • Identify occupancy limits, established in consultation with Town Fire and Building Staff; • Identify patio-specific provisions, including maximum heights, setbacks from other patios and intersections, and restrict patios in certain areas (e.g., accessible parking spaces, loading areas, etc.); • Identify limits to the number of patio permits issued along Queen Street, as applicable, and the process for determining such limitation; • Identify requirements related to accessibility matters; and, • Establish requirements regarding the relocation and reinstatement of landscaping features (hardscape and softscape).
Create a Monitoring Program	Town Planning Staff to create an internal monitoring program to advise on steps to regularly review the Program and determine if any adjustments are needed. Staff will report back to Council annually on the results of the monitoring program.

Since the Committee and Council meetings in January, February and March 2024, Town Staff retained a consultant, Landwise, to prepare all necessary documentation and application requirements for the Seasonal Patio Program.

5. DISCUSSION / ANALYSIS

Town Staff have undertaken a comprehensive review of the existing requirements of the Temporary Patio Program, conducted extensive public engagement, received significant feedback and direction from Council, and retained a consultant (Landwise) to consolidate this information into a draft Applicant Guide (attached as **Appendix II** to this report). The purpose of the Applicant Guide is to provide information about the Program including the application process, operational requirements, and minimum design standards.

The draft Minimum Design Standards, a component of the Applicant Guide, was presented to the Town's Municipal Heritage Committee on December 4, 2024. These Standards would guide the design requirements and locations of temporary patios. Town Staff and the consultant received the following feedback during the meeting:

- Need to limit the number of patios on Queen Street, or eliminate patios on Queen Street and within the Heritage District
- Patios should have a consistent design, have a maintenance plan to ensure that they are sanitary and being cleaned, and patios should be removed in the winter
- Identify any transition policies/requirement between the current and proposed program
- Enhance the look of the proposed roadside barriers to reduce impacts on the streetscape
- Provide additional information on program fees
- Recommend that shade structures are not permitted (e.g., no umbrellas, pergolas or tents)
- Consider establishing pedestrian-only blocks on Queen Street

The draft Applicant Guide, including the Minimum Design Standards, has been circulated to Town Departments for review and feedback related to their program requirements. All feedback received from the Town and the Municipal Heritage Committee has been considered through the preparation of the current draft Applicant Guide to support a Seasonal Patio Program. Staff welcome comments from Council on the draft Applicant Guide for consideration in the final document.

Prior to bringing forward the Applicant Guide for Council's consideration, Staff will be conducting additional public engagement. Town Staff and the consultant will be holding a Focus Group session to receive feedback on the Applicant Guide. It is anticipated that this session will include current or past patio operators, as well as food and drink establishment operators with an interest in the Program. The Applicant Guide will be available on the Town's website, as well as advertised through the Town's social media pages, for review and feedback from the public.

It is anticipated that a final draft of the Applicant Guide will be brought to Council for consideration in February 2025.

In order to provide an opportunity to complete the program review, as well as to provide time to implement the required Zoning By-law Amendment, Town Staff recommend that the current Temporary Use By-law be extended to December 31, 2025. This Temporary Use By-law extension (**Appendix I**) will allow for the continuation of the current Temporary Patio Program, while the new Seasonal Patio Program is finalized and brought forward for Council

endorsement and approval. Town Staff recommend that temporary patios only be permitted in the urban area, as approved by Council in 2024.

If Council does not pass the Temporary Use By-law, permissions for the current Temporary Patio Program would expire on February 28, 2025, and no temporary patios would be permitted for 2025 and all business owners would be subject to the provisions of Section 6.36 of the Zoning By-law regarding patios.

6. STRATEGIC PLAN

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

Pillar

1. Vibrant & Complete Community

Priority

1.2 Economic Development & Community Partnerships

Action

1.2 a) Economic Development

7. OPTIONS

- 7.1 Option 1: Council approve the Temporary Use By-law to extend the current Temporary Patio Program in the urban area only until December 31, 2025, to allow time to finalize the proposed Seasonal Patio Program. **(Recommended)**
- 7.2 Option 2: Council does not approve the Temporary Use By-law, and the Temporary Patio Program expires on February 28, 2025. The Town would no longer have a temporary patio program, no permits will be issued for 2025, and all patio operators will be subject to the requirements of Town Zoning By-law 4316-09, as amended. *(Not Recommended)*

8. FINANCIAL IMPLICATIONS

There are no direct financial implications to this report. If a Seasonal Patio Program is implemented, fees are anticipated to be collected for permits and other considerations (e.g., parking and encroachments). The fees will be reflected in the Town's User Fees, once established. Based on direction to be provided from Council, financial impacts related to a Seasonal Patio Program will be considered and determined through a future report to Council.

9. ENVIRONMENTAL IMPLICATIONS

Not applicable. There are no direct environmental implications to this report.

10. COMMUNICATIONS

Further engagement will occur through a Focus Group session, as well as through public feedback on the draft Applicant Guide. Information regarding the Temporary Patio Program review is provided on the Town's Join the Conversation website (<https://www.jointheconversationnotl.org/patio-program>). All feedback will be considered in the preparation of the final Applicant Guide.

11. CONCLUSION

The Town is committed to fostering economic prosperity, supporting local businesses, and maintaining the vibrancy of our community, while protecting heritage resources and ensuring public safety. The continuation of the patio program can assist in supporting a strong sense of place and streetscape, contribute to a welcoming community, and ensure continued support for the tourism economy.

Significant progress has been made on the review of the patio program, the creation of the revised design standards, and the applicant guide. Staff anticipate bringing the final documents as soon as possible, with a target of the February reporting cycle. However, in order to ensure there is adequate time to finalize the Seasonal Patio Program, Staff recommend that Council approve the Temporary Use By-law to extend the current Temporary Patio Program until December 31, 2025.

12. PREVIOUS REPORTS

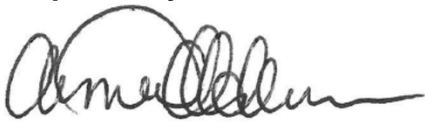
- **CDS-24-187** – Request for Comments - Seasonal Patio Program Minimum Design Standards
- **CDS-24-007** – Temporary Patio Program Review – Additional Information
- **CDS-23-205** – Temporary Patio Program Review
- **CDS-23-005** – Seasonal Patio Program
- **CDS-21-033** – 2022 Temporary Patio Program
- **CDS-21-008** – 2021 Temporary Patio Program
- **CDS-20-013** – Temporary Patio Extensions

13. APPENDICES

- **Appendix I** – Temporary Use (Patios) – Draft By-law 4316EG(3)-25
- **Appendix II** – Draft Applicant Guide

Respectfully submitted:

Prepared by:



Aimee Alderman, MCIP, RPP
Manager of Development Planning

Recommended by:



Kirsten McCauley, MCIP, RPP
Director of Community & Development Services

Submitted by:



Bruce Zvaniga
Chief Administrative Officer (Interim)