

Temporary Outdoor Patio Guidelines

Notice of Intent:

Please provide notice to the Municipality by calling (519) 326-5761 to:

- i) advise as to whether you have or intent to establish or expand a temporary patio on private lands; or
- ii) obtain permission to establish a temporary patio or expand a temporary patio onto municipal lands.

A Customer Service Representative will assist you.

Background: In order to assist in the facilitation of the opening for businesses, the Municipality of Leamington has instituted the following guidelines for the establishment of Temporary Outdoor Patios to ensure that public health and safety is maintained.

Compliance: In the event of a discrepancy between these Guidelines and any federal or provincial statute or regulation, including, but not limited to any order under the Emergency Management and Civil Protection Act; Reopening Ontario Act, 2020; any order of the Medical Officer of Health; or any guidance from the Windsor Essex County Health Unit, such statute, regulation, order or guidance shall prevail. It is the responsibility of the business owner to ensure compliance with the foregoing.

Definition: For the purposes of these Guidelines, “Officer” shall mean the Chief Building Official, a Building Inspector, a By-law Enforcement Officer and a Fire Inspector.

Guidelines:

1. Temporary patios shall only be permitted for existing restaurants, bars and other food and drink establishments.
2. Temporary patios permitted under this guideline shall extend no later than January 1, 2022; however, the Municipality may terminate these permissions upon 24 hours’ notice.
3. The business owner is responsible for obtaining all relevant permissions, including, but not limited to, permission from the owner of the property if leased.
4. Temporary patios must not extend in front of adjacent tenant spaces, existing exits, or beyond their own business frontage without written permission from affected adjacent property owners and tenants; this includes any overhanging elements.
5. Existing and temporary patios must adhere to all provincial and local public health guidelines related to COVID-19. Tables and chairs shall be arranged so that a minimum distance of 2m (6ft) is maintained between seated occupants from different groups.

6. If a temporary patio is covered by a roof, canopy, tent, or awning, at least two sides must be open. Blocking of open sides with plants, walls, etc. is not permitted. If a tent or a group of tents are used, they should be at least 3 meters high. If the tent or group of tents is larger than 60 sq. m. (645 sq. ft.) a building permit is required. Tents greater than 225 sq. m. (2421 sq. ft.) require engineered drawings to be submitted with the building permit application, together with a site plan showing location of the tents.
7. Platforms, decks, stages and portable toilets are not permitted. Subject to paragraph 6, temporary patio perimeter fencing, planters, or barriers approximately 1.2m (4ft) high are permitted, provided they are to be secured without endangering any underground utilities.
8. No cooking of food and drink preparation is permitted on temporary patios.
9. 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 the liquor licence or 1.11 sq. m. (12.0 sq. ft.) per person, whichever is the lessor.
10. 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 the liquor licence or 1.11 sq. m. (12.0 sq. ft.) per person, whichever is the lessor.
11. For unlicensed establishments that do not have an existing patio, the capacity of the temporary patio shall not exceed the posted occupancy of the indoor area, or 1.11 sq. m. (12.0 sq. ft.) per person, whichever is the lessor.
12. For unlicensed establishments that have an existing patio, the capacity of the combined area of the existing and temporary patios shall not exceed the posted occupancy of the indoor area or 1.11 sq. m. (12.0 sq. ft.) per person, whichever is the lessor.
13. Owners shall provide their liquor licence, if requested by any Officer.
14. Required on-site parking may be used for a temporary patio. The designated Accessible Parking Spaces must remain available for parking use and designated fire routes and sight triangles must be avoided. An appropriate number of standard parking spaces should be maintained to ensure sufficient parking of patrons and the number and use of on-street parking spaces may be taken into account when making this determination.
15. The design and placement of the temporary patio shall ensure that the safe movement of pedestrians and vehicles is accommodated on the property in the vicinity of the temporary patio. Accessibility must be maintained to and throughout the temporary patio, including meeting Accessibility for Ontarians with Disabilities Act requirements.
16. A solid barrier approximately 1.2m (4ft) high shall be installed where a patio is adjacent to any vehicle movement areas.

17. When the perimeter is barricaded, a temporary patio with capacity for more than 60 people must have two separate exits.
18. A minimum 1.5m (5 ft.) clearance from fire department connections and hydrants must be maintained on a temporary patio.
19. A fire extinguisher (minimum 2A-10BC) must be available within 15.2 m (50 ft.) of any part of the temporary patio.
20. Signage shall be installed at designated exit points to ensure alcohol does not travel outside of designated spaces.
21. Umbrellas must stand at least 2.1m (6.9 ft) above the walking surface.
22. Only CSA-certified electric or propane patio heaters (with max 20lb tank) are permitted when located at least 3m (10ft) away from tree branches, operated per the manufacturer's directions and not stored on the road right-of-way when not in use. Solid-, gel- or liquid-fuel fire features are not permitted.
23. Any Officer is authorized to inspect all temporary patios and to require adjustments to the patio in order to address compliance with these Guidelines.
24. Patios may not be established or expanded onto municipally owned lands without the consent of the Municipality. In order to obtain consent, a site drawing must be submitted illustrating the location, limits and dimensions of the temporary patio and associated features (i.e. barricades, tables, chairs). The owner of the patio business must indemnify the Municipality and provide the Municipality with a certificate of insurance in the amount of \$5 million, noting the Municipality as an additional insured.