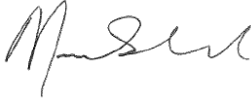




## COMMUNICATION UPDATE

<b>TO:</b>	Mayor and Members City Council
<b>DATE:</b>	February 8, 2024
<b>SUBJECT:</b>	Launch of Temporary Outdoor Patio Program 2024 Season (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>SUBMITTED BY:</b>	Norm Schleeahn Director, Economic Development Planning and Economic Development Department
<b>SIGNATURE:</b>	

The purpose of this Communication Update is to advise Council of the scope, timing and fees for 2024 for the City's Temporary Outdoor Patio Program. This Communication Update also includes the results of the 2023 survey of participating businesses, attached as Appendix "A".

### Application Timeline and Process

The Temporary Outdoor Patio Program will once again operate from April 1 to October 31, 2024.

Applications will open on March 1, 2024. Staff anticipate a timeline for review of applications of 5 business days.

Interested business owners who wish to apply for a Temporary Outdoor Patio can do so by applying online at the City of Hamilton website (Temporary Outdoor Patio Program) <https://www.hamilton.ca/build-invest-grow/starting-small-business/permits-inspections/temporary-outdoor-patio-program>

Questions regarding the program can be sent to [outdinedist@hamilton.ca](mailto:outdinedist@hamilton.ca) (Cristina Geissler, Business Development and Business Improvement Area Officer) by email at or by phone at (905) 546-2424 Ext. 2632.

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OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

## **Program Changes for 2024**

Report PED23108 advised Council of a number of accessibility improvements related to on-street pedestrian by-pass structures that included the removal of ground obstructions for signage, clear path of travel markings, high contrast markings on handrails and barricades, addition of cane detection strips, retrofitting of handrails so that they end flush with the pedestrian by-pass on-street structures and an Accessibility Addendum shared with every approved applicant in 2023. These program enhancements will continue in 2024.

New program enhancements for 2024 include the following:

- Eligible applicants will be expanded beyond restaurants, bars, and cafes provided that the intended use of the patio is as a gathering space. Extension of retail space on to Temporary Outdoor Patios will not be permitted. This is in response to a request made by the Business Improvement Area Sub Committee in May 2023; and,
- A simplified application be required for Temporary Outdoor Patios on private property, such as private parking areas. This is required for licensed establishments that would like to request to share their liquor license capacity between their indoor establishment and their outdoor patio space.

## **Fees for the 2024 Temporary Outdoor Patio Program**

The User Fees related to this program were approved as part of the Tax Supported User Fees Report on January 24, 2024.

Notable changes include the following:

- No increase to the 2023 application fee of \$676.11;
- An application fee will no longer be required for patios on private property; and,
- The 2023 “On-Street Patio – Traffic Device Hardware and Installation Fee” has been removed. Staff are satisfied that the safety precautions and requirements will be addressed as part of the service that an Ontario Traffic Manual Book 7 patio provider will supply to the applicant, and as such will no longer require City resources. In the application process the applicant will be responsible for all safety and traffic control devices for on-street structures.

The applicable fees for the 2024 program are summarized in Table 1.

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Table 1: 2024 Fees for the Temporary Outdoor Patio Program

<b>City Fee</b>	<b>2024 Cost</b>	<b>Details</b>
<b>Temporary Outdoor Patio Application Fee</b>	\$676.11	Applicable only to applications for patios on municipal property, including On-Street Patio applications
<b>Temporary On-Street Patio Occupation of Parking Space Fee</b>	\$913.27/parking space	Applicable only to on-street structures (patios or pedestrian bypass structures)
<b>Temporary Lane Closure Fee</b>	\$59.20	Applicable to patios occupying an alleyway.

In addition to the City Fees summarized in Table 1, patio operators may incur additional costs related to renting patios from third-party vendors and/or installing the required safety devices through a third-party vendor.

The most significant third-party costs relate to the installation of safety devices for on-street patios. In 2022, the patio program was modified to require the installation of additional crash barriers and other improvements for pedestrian and patron safety. Report PED22051(a) provides more details on the safety devices implemented. These requirements were adopted in response to the Restaurant Patio Guidelines within the Right of Way document that was released by the provincial Ontario Traffic Council. The Ontario Traffic Council is a provincial member-based organization that provides diverse expertise in traffic engineering, transportation planning, safety, and traffic enforcement. For 2024, the requirement for safety and traffic control devices will continue, with costs to be paid for by the applicant directly to the third-party supplier of these Ontario Traffic Manual Book 7 certified devices.

A summary of expected non-City fees is provided in Table 2.

Table 2: Additional Non-City Fees That May Be Incurred by Patio Operators

<b>Non-City Fee (Third-Party Vendor)</b>	<b>Cost (estimated)</b>	<b>Details</b>
<b>Installation and rental of crash barriers</b>	Approx. \$4500	Applicable to on-street structures only
<b>Seasonal patio rental</b>	Approx. \$3500	Applicable to on-street structures only

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Liquor licensed business owners who wish to serve liquor on their Temporary Outdoor Patio are required to obtain approval of the patio from the City of Hamilton through the Temporary Outdoor Patio Program and must notify the Alcohol and Gaming Commission of Ontario of the approval. Duration of the approval, and any applicable conditions, are to be made through upload of documentation to the applicant's personal Alcohol Gaming Commission Ontario portal.

**Waiver of Fees in 2023**

For the 2023 patio season, at its March 29, 2023 meeting, Council approved the following Motion, in recognition of the fact that local restaurants and cafes continue to be impacted by reduced business as a result of hybrid working and reduced foot traffic in some of our commercial areas, and in response to the request of a number of BIAs for a phased approach to returning to full fee recovery for the Temporary Outdoor Patio Program:

- (a) That for the 2023 season, the application fee for the Temporary Outdoor Patio Program of \$676.11 be waived and the costs recovered through the Economic Development Initiatives Reserve (112221);
- (b) That for the 2023 season, the City Fee for Temporary Patio Installation of Safety Devices fee (if applicable) of \$800 be waived and the costs recovered through the Economic Development Initiatives Reserve (112221); and,
- (c) That local businesses be responsible for covering all other costs associated with the Temporary Outdoor Patio Program.

A summary of the lost revenues to the City as a result of the 2023 fee waivers are summarized in Table 3. These lost revenues were offset through the Economic Development Initiatives Reserve.

Table 3: Summary of Lost Revenues Associated with the 2023 Fee Waivers

<b>Waived Fee</b>	<b>Lost Revenue</b>
<b>Temporary Outdoor Patio Fee \$676.11 per application</b>	\$66,258.78 (based on 98 approved applications)
<b>Safety Devices – Installation and materials \$800 per application</b>	\$11,200 (based on 14 applications)
<b>TOTAL</b>	<b>\$77,458.78</b>

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For 2024, the Safety Device fee is no longer applicable. In addition, the application fee is now only applicable to patios on city property. Therefore, the expected lost revenues to the City, should the application fees be waived again for 2024, would be significantly lower. Based on a forecast of 65 patios on municipal property in 2024, the impact to the City of waiving application fees again for the 2024 season would be approximately \$44,000.

**Contact Information**

If you have any questions respecting this communication, please contact Cristina Geissler, Business Development and Business Improvement Area Officer by email at [Cristina.Geissler@hamilton.ca](mailto:Cristina.Geissler@hamilton.ca) or by phone at (905) 546-2424 Ext. 2632.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" – 2023 Temporary Outdoor Patio Program Business Survey Results

ID	Is your business considering applying to the Temporary Outdoor Patio Program again next season?	Please rate your overall experience this season (1 being poor, 5 being excellent)	Please rate your application turnaround time.	Please rate your customer service experience with your patio application this season.	Please rate how affordable the fees associated with your patio application were this season.	Please rate how clear and easy the Temporary Outdoor Patio Program guidelines were to understand.	How likely are you to participate in the Temporary Outdoor Patio Program if fees are part of the application process next season?	Please provide any additional comments you may have on the Temporary Outdoor Patio Program.
1	Yes	5	5	5	5	4	Very likely	
2	Yes	5	4	5	5	5	Somewhat likely	
3	Yes	5	3	5	5	5	Very unlikely	Please include this as an option going forward as it helps business and allows for building permits to be passed faster by separating the patio requirements for some businesses.
4	Yes	4	5	5	1	4	Somewhat unlikely	
5	Yes	4	4	4	5	5	Very likely	People to deal with were excellent
6	Yes	5	4	4	5	4	Somewhat unlikely	We believe that this opportunity should be extended to any BIA area next year. We are interested in utilizing a small section of the sidewalk, ensuring it does not impede pedestrian traffic, to set up additional seating when weather permits. However, we advocate for the absence of any fees associated with this, as we will adhere to patio permit regulations by submitting drawings and insurance to the city. Since we do not intend to occupy a parking spot, we believe this approach will make it more financially feasible for small businesses, especially considering our existing contributions through BIA levy as an additional tax.
7	Yes	5	5	4	3	3	Somewhat likely	I'm not completely sure about the difference between a permanent patio that is used only seasonally, and a temporary patio that can be dismantled. I have a permanent patio that is only used temporarily and I'm worried I'm using the wrong program. Also curious about if I can add a sidewalk patio for something like an event weekend - not clear whether following the acceptable dimensions is okay or if it needs to be declared as part of the patio space when applying in the first place. I did reach out to ask about this but never got a response, so I figured it must be declared when I applied in the first place.
8	Yes	3	4	4	5	4	Very unlikely	Business was slower this year, really need another year to gauge whether or not the Patio option is worth the work
9	Unsure	1	3	3	1	3	Very unlikely	We completed the application process and were approved for a sidewalk patio this year, but there wasn't enough space for the tables and chairs we'd purchased the previous year for our on-street patio. We were not able to afford new patio furniture, and we definitely were not able to afford the SUBSTANTIALLY increased fees for an on-street patio again. We were very fortunate that Pop Up Patios did not hold us to the multi-year agreement we had signed; we only wish the City had reduced their fees and revisited the way in which they have decided to approach the new traffic barrier guidelines.
10	Yes	5	5	5	5	5	Somewhat unlikely	We like many establishment installed a temporary patio due to co-vid. It is lovely to have but if there is a significant cost to it next year we may weigh our options.

11	Yes	5	5	5	5	5	Somewhat likely	Westdale and Locke street BIA's made it easy to execute and it is super helpful that the city worked closely with them to expand the program..I would love to see creative solutions to extend into spring/Fall (ie 3 sided tents etc. being permitted)
12	Yes	5	5	5	4	5	Somewhat unlikely	Turnaround times on applications was amazing this year! Much better than last year!
13	Unsure	5	5	5	3	5	Somewhat unlikely	Customer service was great this year - answers and permits came quickly. That being said, costs for my business keep going up - so if there are more fees next year I will have to seriously rethink our patio.
14	Yes	5	5	5	5	4	Somewhat likely	
15	Yes	5	5	5	5	5	Very likely	
16	Yes	5	5	5	5	4	Somewhat likely	
17	Unsure	4	4	4	5	4	Very unlikely	
18	Unsure	5	5	5	3	4	Somewhat unlikely	Fast permit and friendly staff. But if prices on patios go up then we will probably not be able to afford it. Hoping we can use our patio on our own property without any more costs.
19	Yes	4	4	4	5	3	Somewhat likely	
20	Yes	5	4	5	4	4	Very likely	Unless my business goes under or the fees are several thousand dollars, we will 100% be applying for an outdoor patio again next year! It's a great program. Thank you!
21	Yes	3	4	3	3	3	Somewhat likely	We will participate however if fees are part of the application we would have to see what the fee would be in order to make a decision whether we would proceed with applying or not. The application was easy. Some feedback that could use some work is the time a person waits for a response to questions/concerns. Waiting 3-5 business day for a response is a little long.
22	Yes	2	3	3	2	3	Somewhat likely	Our business could do 99percent better in drawing a crowd. They do not do anything to entice patrons .legion622.
23	Yes	5	5	5	5	5	Very likely	Do not increase the application fees. I'd suggest finding a way to make a fee structure for specific styles of patio. I also think that especially in a circumstance where multiple people could apply for a space, the person who had it originally should have the right of refusal.
24	Unsure	1	2	2	1	1	Very unlikely	This is no longer a feasible option for small businesses. Not worthwhile to set up with the crazy cost of barriers and fees. A shame for the city as you will see even fewer outdoor patios next year
25	Yes	1	4	4	1	1	Very unlikely	The City needs to cover the costs of the safety barricades (full stop), and also do the due diligence to provide a variety of solutions, and clarity for businesses so that more can participate. Fees should be offset by grants that can be applied for depending on the business - corporate chains for example, have budgets for these things, local coffee shops or community groups do not. They also have different business models - this should be taken into consideration. Also, patios contribute more to the tax base in many cases than the parking revenue does. In fact these businesses increase the surrounding parking revenue directly by conducting successful business - charging for the parking spot is double dipping on the taxes, at the expense of small businesses who are already struggling. More creative "placemaking" solutions that look at the benefits of outdoor public spaces (which these very much are public spaces, facilitated by private business, which is the point), and come up with creative, wholistic looks at how to leverage this program, and programs like it to increase the beatification and pedestrian focus of our streets. This year was extremely disappointing to see so few patios in Hamilton because of cost prohibiting and administrative reasons that were unique to this municipality, and the decisions/lack of preparation that was done to ensure the success of a program that is highly valued by the community at large.

26	Yes	5	5	5	5	5	Very likely	Really appreciated the quick turnaround on our private patio permit. Also think it was helpful that no additional fees had to be paid for our own property space.
27	Unsure	4	5	5	5	4	Somewhat unlikely	I have my patio with Liquor license for more than 25 years and I don't know why I have to apply now every year to the City. I don't mind to do the application every year but I don't know why. No problem when it is time for the application I will do.
28	Yes	4	4	5	3	4	Very likely	