# Public Lands

## Seasonal Patio Guidelines

These guidelines provide the application and design requirements for seasonal patios located on public lands.





burlington.ca/patios

CITY OF Burlington

CP- 8003020067



# About The Guidelines

The City of Burlington retains discretion to review proposals in the right-of-way on a case-by-case basis considering factors such as limited frontage options, past complaints reported at the address, non-compliance with these guidelines and conditions imposed by City Council in similar local circumstances.

These guidelines are subject to change and patios are only permitted in accordance with all requirements of the Province of Ontario and the City of Burlington, including statutes, bylaws, regulations, orders, and guidelines. These guidelines have been developed with regard for the Ontario Traffic Council (OTC) 'Restaurant Patio Guidelines within the Right of Way' (2022). In the case of a conflict between this document and the OTC guidelines, these guidelines shall prevail.

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# 1.0 Introduction

The City of Burlington is offering participants in the Seasonal Outdoor Patio Program the opportunity to access public space on city streets and sidewalks to expand or create an outdoor patio.

The City of Burlington has prepared this document to summarize the essential information required to safely operate a seasonal patio, where possible, for the patio season.

If you wish to operate a seasonal patio on public lands you **MUST** apply to the City of Burlington for approval.

Patios must meet the design and operational requirements set out in this document, including but not limited to, obligations related to health and safety, accessibility, equipment (e.g., fencing, barriers, and planters), and insurance and indemnification requirements. Pedestrian mobility, physical distancing, patio and road user safety requirements must be met for this program to be successful for all members of the public.

To share your thoughts on the program, email patios@burlington.ca

## Alcohol Service and AGCO Regulations

The Province of Ontario's new approval framework for temporary outdoor patios came into effect on Jan. 1, 2023. The Alcohol and Gaming Commission of Ontario (AGCO) no longer accepts applications or otherwise approves temporary outdoor patios for licensees located in municipalities. Upon obtaining approval from the City of Burlington for your patio, you must then notify the AGCO by submitting your city-approved permit on the iAGCO portal before selling or serving liquor on your patio.

## Halton Public Health Requirements

Participants in the program must operate in accordance with the Health Protection and Promotion Act and follow current public health guidelines as developed by Halton Public Health and the Province of Ontario. Please visit Halton Region's website to stay informed. There may be additional requirements depending on current public health regulations.

## Business Improvement Areas (BIAs)

Local BIAs are an integral part of the Seasonal Outdoor Patio Program. If your business is located within a BIA you should speak to your BIA representative for additional information and assistance:

**Aldershot Village BIA (ABIA)**

https://aldershotbia.com/

**Burlington Downtown Business Association (BDBA)**

https://burlingtondowntown.ca/

# 2.0 Complete Application Requirements

The City of Burlington will issue the permissions to use Public Lands seasonally for a patio. To apply for a permit for a seasonal patio on public lands, as the applicant you will need to submit the following:

### Application Checklist

- ☐ Dimensioned drawings - Site Plan of proposed seasonal patio (see details on pages 10 and 12).

  **OR**

- ☐ Permit Renewal with no changes.

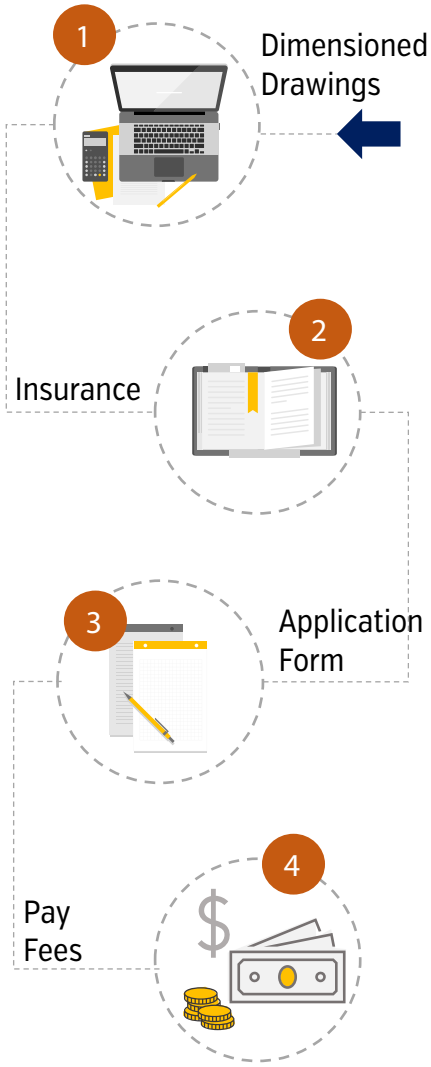
  **Please note:** A curb lane patio or pedestrian by-pass in any portion of a parking space or driving/travel lane, will require a platform plan and drawings designed, signed and stamped by a professionally licensed designer (e.g., Professional Engineer or Registered Architect).

- ☐ Insurance - A certified copy of an insurance policy covering property damage or personal injury, negligence including death. This must include liability in the amount of $2 million for each occurrence and naming the City of Burlington as an additional insures on the policy. In addition, the Commercial General Liability shall contain Cross Liability and Severability Clauses and Products & Completed Operations coverage including a standard contractual liability endorsement.

- ☐ Complete the online application form located on our website.

  **Please note:** If applying for multiple locations, only one application form is needed.

- ☐ Pay applicable fees.





# 3.0 How Is My Application Processed?

# How Is My Application Processed?



## Step 1: Application Intake

Applications are available Jan. 1, 2025. Apply by March 1, 2025, to ensure your application is reviewed by the start of the patio season.



## Step 2: Application Review

Staff will send an email to confirm the application has been received. Your application will be reviewed by staff and feedback will be provided to you, if necessary.



## Step 3: Application Approval

If your application is approved by the City, staff will email you with the amount owing in fees before issuing a permit for your patio. Your permit will include conditions you will need to follow. If you will be serving liquor on your patio don't forget to submit your permit to the Alcohol and Gaming Commission of Ontario (AGCO) through the iAGCO portal.



## Step 4: Patio Installation

Once you receive your permit, you will be asked to notify staff of your preferred date for the installation of your patio. Staff will coordinate with you to set up any required safety and traffic signage and barriers before the patio is installed. Once all safety and traffic control measures are set up, patios that do not require an inspection can be opened April 15 at the earliest.



## Step 5: Patio Inspection for ALL Curb Lane Patios and Pedestrian By-passes

Before you open your curb lane patio or pedestrian by-pass to the public, an inspection of the installation by a qualified professional must be completed. The qualified professional must provide the City with a signed letter of inspection confirming the installation complies with the designs approved by the City. Staff will confirm when the letter has been received. Once the letter is received to the satisfaction of the City, the temporary platform may be opened for use by the public.

# 4.0 Types of Patios

There are two styles of seasonal patios on public lands that may be approved:



## Curb Lane Patios

Curb lane patios are outdoor dining areas located in a parking lane directly adjacent to the curb where food and/or drinks are served for consumption by a licensed eating or drinking establishment.




## Sidewalk Patios

Sidewalk patios are outdoor dining areas temporarily installed on sidewalks located in part or entirely on a public right-of-way where food and/or drinks are served for consumption by a licensed eating or drinking establishment. A sidewalk patio is only permitted where a 1.8 metre wide pedestrian clear path can be provided.



# 4.1 Curb Lane Patios

### A. Requirements

i. Curb lane patios are permitted within downtown Burlington.

ii. Curb lane patios may not be possible within the following areas:

- Commercial loading zones;
- Accessible boarding zones;
- Locations with transit stops;
- Designated Accessible Parking locations;
- Areas that would conflict with an active construction zone; or
- Roads with a posted speed of greater than 50 km/h.

iii. A curb lane patio must be a raised platform (see section 6 “Accessibility” on page 15 for details and temporary platform requirements).

iv. To ensure visibility to moving traffic and parking cars, patios must be buffered using a wheel stop or an approved alternative such as a low-profile planter box at a minimum distance of 1.0 metres (1,000 mm) from each end.
**Please note:** The required wheel stops or approved alternative such as a low-profile planter box are to be supplied and installed by the applicant.

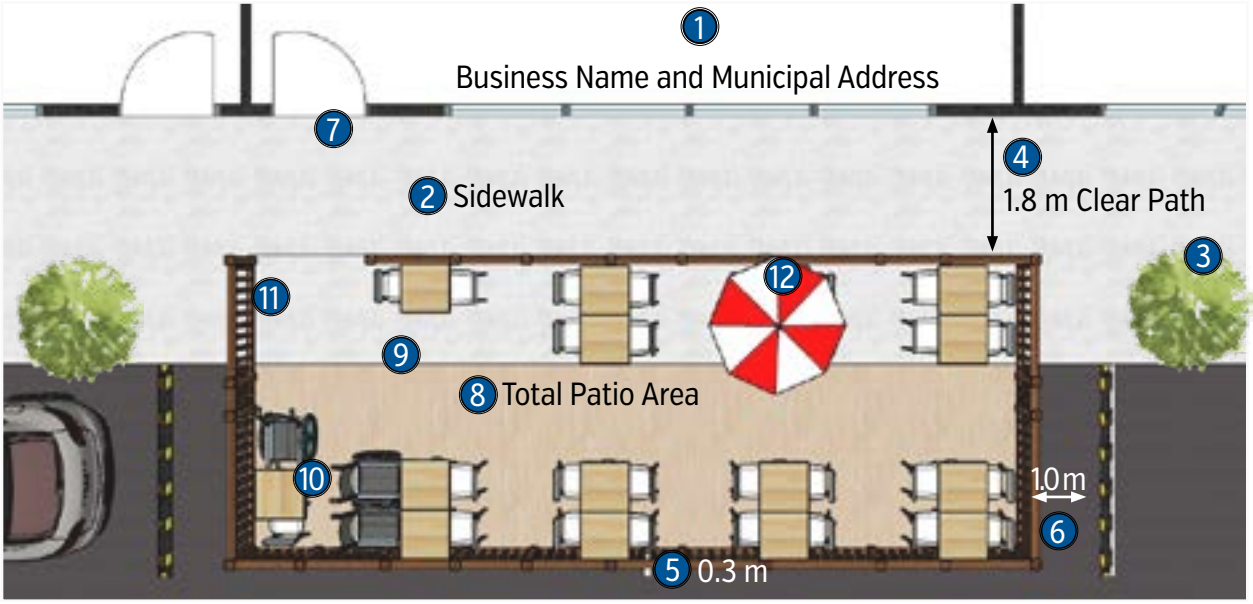
- An approved alternative to a wheel stop must not be greater than 1.0 metre in height, measured from the surface of the street to preserve sight lines.

v. Visibility to a traffic signal, stop sign or other traffic control device must not be obstructed and sightline requirements will be required to be maintained as per the Transportation Association of Canada (TAC) ‘Geometric Design Guide for Canadian Roads’.

vi. Fire Department connections (siamese connections) and hydrants must be clearly visible and unobstructed by all curb lane patios.

## B. Detailed Dimensioned Drawing Requirements

Sample of a detailed drawing required




Drawings are for illustrative purposes only. These examples might not be replicated as are shown.

### Your detailed drawings should include:

1. **Business Name and Municipal Address:** Identify Business Name and Municipal Address.
2. **Sidewalk:** Identify the sidewalk on drawings and provide a minimum of 2.44 metres of vertical clear space.
3. **Streetscape:** Identify any streetscape elements such as street poles, transit stops, trees, fire hydrants, and show distance of patio from nearby intersections and driveways.
4. **Pedestrian Clear Path:** Provide a minimum 1.80 metres wide of clear unobstructed and accessible public path of travel dedicated for pedestrians.
5. **Travel Lane Setback:** Provide a minimum setback of 0.3 metres from travel lanes.
6. **Parking Space Setback:** Provide a minimum setback of 1.0 metres from parking spaces.
7. **Entrances:** Identify locations of business entrance and adjacent building entrances.
8. **Area:** Provide the total area of the patio and demonstrate that the seating diagram provides for a minimum 1.10 square metres per person.
9. **Transition:** Ensure that the transition is flush to curb, difference in height and gap should be less than 0.006 metres.
10. **Accessibility:** Ensure that 20% of tables but not less than 1.0 table is accessible.
11. **Guard Railing:** Must be between 0.91 metres - 1.07 metres in height.
12. **Accessories:** Provide details and locations of any umbrellas, tents and planters.



# 4.2 Sidewalk Patios With Pedestrian By-Pass

### A. Requirements

i. A patio is permitted on a sidewalk if there is 1.8 metres minimum clear, unobstructed and accessible public path of travel dedicated for pedestrians.

ii. The recommended setback for sidewalk patios from the corner of an intersection (stop sign or nearest edge of closest sidewalk on an intersecting street) is at least 15 metres. If a sidewalk patio occupies the first parking space within a row of parking, it is recommended that flexible bollards (spaced 2 metres apart) redirect approaching traffic around the patio. For safety, City Transportation Services staff will review proposed patios to ensure that sightlines (visibility at intersections) are maintained.

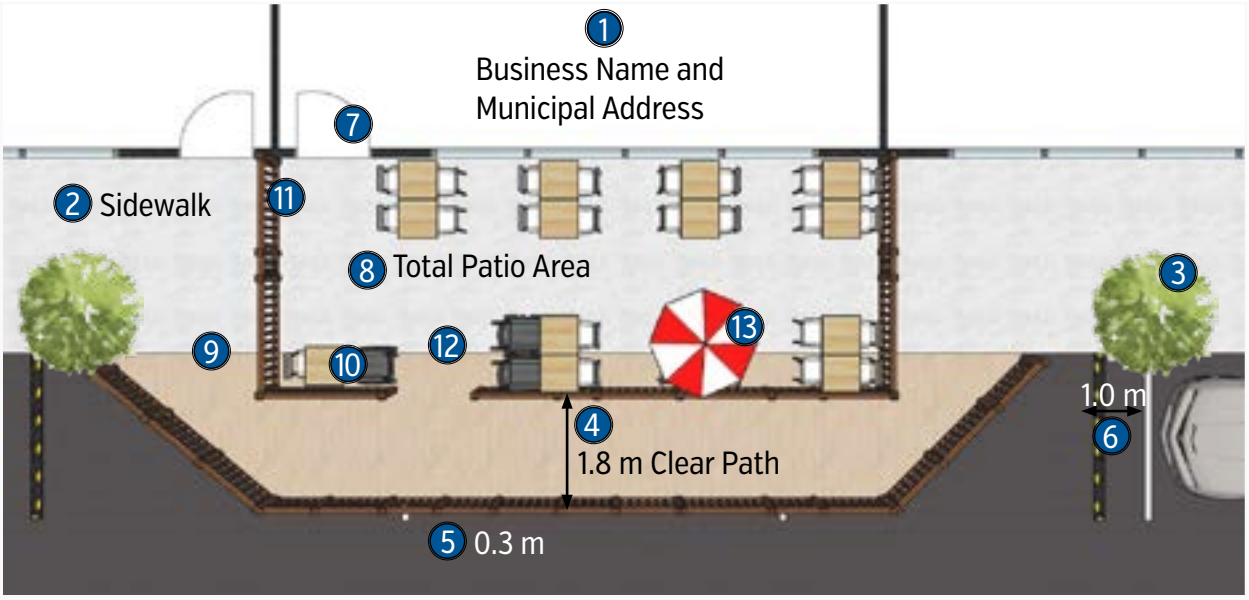
iii. Fire Department connections (siamese connections) and hydrants must be clearly visible and unobstructed by all sidewalk patios.

### B. Pedestrian By-Pass Requirements

iv. An at-sidewalk grade, pedestrian by-pass (temporary platform) in the parking or travel lane adjacent to the patio is required. (see details on pages 13 and 16).

## C. Detailed Dimensioned Drawing Requirements

Sample of a detailed drawing required




Drawings are for illustrative purposes only. These examples might not be replicated as are shown.

### Your detailed drawings should include:

1. **Business Name and Municipal Address:** Identify Business Name and Municipal Address.
2. **Sidewalk:** Identify the sidewalk on drawings.
3. **Streetscape:** Identify any streetscape elements such as street poles, transit stops, trees, fire hydrants, and show distance of patio from nearby intersections and driveways.
4. **Pedestrian Clear Path:** Provide a minimum 1.80 metres wide of clear unobstructed and accessible public path of travel dedicated for pedestrians and a minimum of 2.44 meters of vertical clear space.
5. **Travel Lane Setback:** Provide a minimum setback of 0.3 metres from travel lanes.
6. **Parking Space Setback:** Provide a minimum setback of 1.0 metres from parking spaces.
7. **Entrances:** Identify locations of business entrance and adjacent building entrances.
8. **Area:** Provide the total area of the patio and demonstrate that the seating diagram provides for a minimum 1.10 square metres per person.
9. **Transition:** Ensure that the transition is flush to curb, difference in height and gap should be less than 0.006 metres.
10. **Accessibility:** Ensure that 20% of tables but not less than 1.0 table is accessible.
11. **Guard Railing:** Must be between 0.91 metres - 1.07 metres in height.
12. **Emergency Access:** If required, provide at least 1.0 metre wide point of access (see details on page 20).
13. **Accessories:** Provide details and locations of any umbrellas, tents and planters.

# 5.0 General Requirements

1. It is the operating businesses' responsibility to ensure compliance with all applicable federal, provincial, and municipal laws, rules, orders, regulations, and by-laws in respect of operating an outdoor patio.
2. Patios approved under this program shall be in place no earlier than April 15. The applicant is responsible for removal of the patio, no later than Nov. 1. The City reserves the right at its discretion to require the removal of any patio for noncompliance or to address emergency situations.
3. The applicant for a patio should be the owner, or authorized agent, of the business.
4. Patios are permitted where the patio installation is located directly in front of or adjacent to the building of the applicant business. In all cases the business operating the patio shall always exercise control over access and use of the space.
5. Patios may only extend in front of neighbouring businesses if a suitable pedestrian clear path and/or by-pass can be provided.
6. Patios shall not impede access to or visibility of adjacent tenant spaces or exits.
7. Patio operators shall mitigate any negative impacts from the patio on abutting or nearby commercial or residential uses; including prioritizing the use of private land or sidewalk space before curb lane parking spaces and ensuring that access and visibility of neighbouring businesses is not obstructed.
8. All areas of the patio, including access around the patio shall be wheelchair accessible.
9. Business shall not be conducted within required clearance zones, as set out below.
10. Patio operators shall maintain the patio and surrounding area and ensure it is clear of any hazards or debris that may pose a health risk (e.g. grease spills, broken glass, bodily fluids).
11. Patios shall not obstruct underground utility access, electrical transformer vaults, utility boxes, boulevard or road drainage, fire hydrants, parking meters, bike racks, loading zones, active transit stops and other infrastructure.
12. Patio operators shall ensure that they are meeting all noise regulations including those for the amplification of sound as per the City's Noise By-law.

13. Patios and Pedestrian By-passes shall not deviate from the City approved site plan(s). All additional proposed structures, appurtenances or physical extensions, and any changes to the size of or access to the patio area shall be submitted to the City for review and approval before installation.
14. Patios should be at least 3 metres from any nearby driveway. This distance may vary on a site-by-site basis taking into consideration sight lines, road geometry, proximity to transit stops and related amenities, and other considerations to the satisfaction of the City of Burlington.
15. Owner/operators of an outdoor patio must ensure compliance with the Ontario Building Code (OBC), including indoor occupancy capacity is maintained at all times.
16. Safety barriers may be required to separate vehicle traffic from the patio. The side of the seasonal patio including the barrier adjacent to vehicle traffic shall maintain a minimum distance of 0.5 metres (500 mm) from the edge of any adjacent travel lane.
17. Applicants for curb side installations are not permitted to install their patio or block/prevent access to the sidewalk, until the City has completed the installation of appropriate roadside safety/traffic control measures and barrier systems. City staff will determine appropriate roadside safety/traffic control measures and barrier systems on a case-by-case basis in accordance with Ontario Traffic Manual Book 7.
18. Any safety and traffic control measures placed by the City shall not be moved or altered by the patio operator.
19. Signage is required to identify the entrances and exits of seasonal patios and to provide guidance to pedestrians.
20. Applicants will need to coordinate curb side installations with City staff before set up in order for the City to ensure adequate resources are available to facilitate the installation of required safety barriers, etc.



# 6.0 Accessibility

### A. Pedestrian By-Passes (Temporary Platforms)

Temporary platforms are required to provide level, clear, unobstructed and accessible public path of travel dedicated for pedestrians. Temporary platforms are subject to the following requirements:

i. A temporary platform shall not block or obstruct access to utilities, storm water drainage, infrastructure, signage and other traffic control devices.

ii. A temporary platform shall have a guard railing between 0.91 metres (36 inches) to 1.07 metres (42 inches) in height.

iii. A temporary platform shall be firm, stable and slip resistant and meet all applicable legislation, standards and guidelines, as well as the 'Ontario Highway Bridge Design Code'.

iv. Any temporary platform shall only be installed by a contractor licensed to work within the roadway.

v. Fencing and other barricades shall incorporate pronounced colour contrast to the surrounding areas.

vi. A temporary platform shall be well maintained to prevent any trip hazards.

vii. A temporary platform shall provide a flush transition (i.e., height difference of less than 0.006 metres between the floor of the Temporary Platform and the adjacent curb and sidewalk, and a gap between the platform and curb no wider than 0.006 metres).

viii. A temporary platform will require the submission and approval of a platform plan and drawings designed, signed and stamped by a professionally licensed designer (e.g., Professional Engineer or Registered Architect).

### B. Pedestrian Clear Paths

Ensuring accessibility for all patio users includes meeting requirements from the Accessibility for Ontarians with Disabilities Act (AODA), City of Burlington accessibility requirements and accessibility criteria specific to the Seasonal Patio Program.

The pedestrian clear path is a continuous straight path of travel, clear of all obstructions and provides for the safe, accessible, and efficient movement of pedestrians. The sidewalk is how people and customers of all ages and abilities access local shops, restaurants, offices, transit stops and other services, and pedestrians have priority for its use. It is everyone's responsibility to protect the pedestrian clear path.

The pedestrian clear path shall include 1.8 metres of horizontal clear space and 2.44 metres of vertical clear space on sidewalks or pedestrian by-passes.

i. Patio materials **SHOULD NOT** be placed in the pedestrian clear path.

ii. Ensure patios are partitioned off by a cane-detectable barricade (fence/railing/planter/pylon/) to provide people with vision loss the ability to identify boundaries.

iii. All cane-detectable warnings **SHOULD** be no more than 0.68 metres from the ground surface.

iv. Rope-to-post or chain-to-post barricades are not cane detectable.

v. **DO NOT** use the pedestrian clear path to queue patrons awaiting their reservation or table.

vi. **DO NOT** place A-frame signs or other obstacles n the pedestrian clear path.

vii. **DO NOT** lay Electrical wires for any appliances (e.g., heaters, lights) across the pedestrian clear path.

viii. Bicycle parking **SHALL NOT** be allowed on patios or within the pedestrian clear path.

If you place obstructions in the pedestrian clear path, a City of Burlington enforcement officer will require you to remove these materials upon inspection. Patio operators that are the subject of repeated complaints may have their patio permissions removed.

### C. Patio Furniture And Facilities

Patio operators can make several choices that will increase accessibility for all users of patios in Burlington.

Please consider the following when making decisions about your patio elements:

i. Consider people using mobility devices when determining what type of furniture you will set out in your patio area. For example, picnic tables significantly limit the ability of a person using a mobility device to access a dining surface. Pedestal tables and bar height tables are not accessible.

ii. Twenty per-cent of the patio tables, but never less than one table, shall be accessible, which means the seating is removable and must offer wheelchair accessible seating with a route to the seating that is a minimum of 1.10 metres wide.

iii. When determining seating arrangements in your patio area, install tables with room underneath to accommodate people using mobility devices and service dogs.

iv. Ensure that there are clear routes and maneuvering spaces should be included for people using mobility devices in your patio.

v. Advertise whether you have accessible washrooms on your website.



# 7.0 Design

### A. Fencing

To ensure safety and accessibility for your patrons, pedestrians and other road users, these guidelines must be followed:

i. For all patios, a vertical barrier between 0.91 metres and 1.07 metres in height shall always be in place along the portion of the patio or by-pass which is in the curb lane and facing the street. Opaque items (including dense plant material) must not be greater than 1.0 metres in height, measured from the surface of the street to preserve sight lines.

ii. Any part of your fence/railing/barrier/planter near the pedestrian clear path shall have a solid, cane-detectable base, spaced no more than 0.3 metres apart, except for the accessible entrance which must be at least 1.0 metre wide. The fencing/railing/barrier/planter near a sidewalk shall be colour contrasted to the sidewalk to make it easily identifiable to pedestrians.

iii. Any fence/railing/barrier/planter shall be free-standing and self-supporting with appropriate weights such that it cannot be moved unintentionally

iv. The fence/railing/barrier/planter shall be no less than 0.3 metres from the travelled path of vehicular traffic to provide space for cyclists and prevent contact with moving vehicles.

v. Fabric, canvas, plywood, plexiglass or similar materials shall not be used for the vertical barrier.

vi. All fencing,/railing/barriers/planters shall have retro-reflective tape, reflective flexi-posts or hazard marker signs at each end of the patio area, and preferably along the full length of the patio perimeter. All other materials shall minimize glare for nighttime road users.

vii. Please note: The retro-reflective tape is to be supplied by the applicant, unless otherwise noted by the City.

### B. Lighting

Installing lighting elements can be an important benefit to your patio area in the evening. Please ensure your lighting elements comply with the following guidelines:

i. Lighting features must be temporary and comply with all applicable safety standards and codes.

ii. Ensure no power cables or lighting elements run over the pedestrian clear path. Consider battery or solar powered lights.

iii. Lights must not cast glare for pedestrians, passing road users or nearby properties.

iv. Lights can not be attached to poles, posts, or other street furnishings that have not been installed as a part of your patio installation.

v. Patio operators must not connect to outlets available within the public right-of-way.

vi. Lighting must be dimmed or turned off after closing hours.

### C. Umbrellas And Canopies

Umbrellas and canopies are a source of shade for patio patrons and employees and must be installed correctly to ensure the safety of customers and passers-by.

Please ensure umbrellas and canopies comply with the following guidelines:

vii. Canopies are temporary and removable with no walls or sides.

viii. Canopies must be 3.0 metres x 3.0 metres or smaller.

ix. Umbrellas, if used must stand a minimum of 2.1 metres above the walking surface. Umbrellas shall also be of flame retardant material and approved by the Chief Fire Official.

x. Umbrellas and canopies must not protrude into the roadway or pedestrian clear path, as they may interfere with cyclists or vehicles passing near your patio.



# 8.0 Safety

## A. Emergency Access

If the parking/travel lane closure of your patio is longer than 15 metres, a review will be conducted by the Burlington Fire Department to determine whether any emergency access points must be installed as part of your fencing or lateral barrier. Should this be required, you will be notified in writing by City staff.

An emergency access point is a space with an easily identifiable and removable piece of fencing, at least 1 metre wide, which would allow emergency services the ability to gain quick access to the sidewalk from the roadway. An example of an emergency access point could be removable wooden boards, suspended by brackets.

The business owner must ensure compliance with the Building Code, maintaining a minimum egress from the building and within the patio area.



### B. Fire Safety And Heater Requirements

In addition to the following, more information is available on the Technical Standards and Safety Authority (TSSA) website - Patio Heater Safety Guideline.

i. Your portable heating appliance must:

   a. Be certified by CSA/ULC;

   b. Meet the requirements of TSSA Act 2000;

   c. Be designed for outdoor use only;

   d. Have an anti-tilt feature that automatically shuts off the heater;

   e. Be free-standing, with a minimum height of 1.6 metres;

   f. Tabletop heating appliances are not permitted.

ii. **DO** install your portable heating appliance:

   a. On a non-combustible solid surface (e.g., not on grass or uneven sidewalk);

   b. With a minimum of 1.0 metres clearance from the base of the unit to any combustible material.

iii. **DO NOT** install your portable heating appliance:

   a. In windy conditions. Wind negatively impacts efficiency and can create a hazard if the unit is blown over;

   b. Under fire escapes;

   c. Within a means of egress or adjacent to a sidewalk;

   d. Near a combustible structure;

   e. Adjacent to or otherwise obstructing firefighting equipment like fire hydrants or connections;

   f. Within the Tree Protection Zone of any trees. For more information or to request an exception, please contact City Forestry staff;

   g. Near or attached to any utilities or other street elements free-standing, with a minimum height of 1.6 metres;

   h. If electrical wires need to be placed on the pedestrian clear path.

iv. Fueled Heating Appliances:

   a. Do not store the unit indoors;

   b. Keep a maximum of one day's supply of propane on site;

   c. Storage of additional cylinders (including cylinders in cages) is not permitted in public thoroughfares or sidewalks;

   d. The maximum allowable propane tank size is a single 9 kg (20 lb.) tank (approximately 10 hours of operation);

   e. Do not move portable heaters while the flame is still open. Ensure the gas supply is properly shut off and the unit is cool before relocating;

   f. Follow all manufacturer safety requirements for the safe transportation, operation and storage of fuel.