

REQUEST FOR DECISION



Meeting: Regular Council
Meeting Date: April 26, 2021
Presented By: Andrew Chell, Manager of Planning and Engineering
Title: Policy CO-052 - Temporary Patios
Report Type: Request for Decision

STRATEGIC ALIGNMENT:



Building the Community



Building the Economy



Building Infrastructure



Building Strong
Government

RFD PURPOSE:

The purpose of the Temporary Patio Policy is to provide for a means of continued operation for food-service businesses that are affected by Provincial COVID-19 restrictions.

REPORT:

On April , the Alberta government instituted regulations aimed at reducing the spread of COVID-19. These regulations included the restriction of restaurants from serving customer indoors. The provincial restrictions do allow restaurants to serve outdoors, so this Policy was developed in order to allow for patios to be set up by restaurants so that they may continue to operate in compliance with provincial rules.

Normally, restaurant patios would require a Development Permit. In many cases, this requires notification sent to adjacent landowners, and a 21-day appeal period in the case of a discretionary use Development Permit. The approach proposed by this policy would be a temporary program that would supercede the Land Use Bylaw, and would allow for same-day approvals.

How the Policy Works

Applicants will submit a site plan and proof of insurance, and will sign an agreement that they will abide by the regulations set out in the policy. This means that these patios do not need a development permit.

Summary of Regulations for Temporary Patios

- Patios cannot be permanent developments, but must be delineated by movable fencing and/or patio furniture or planters.

- Patios will be allowed to operate between 7:00AM and 10:00 PM, and will be subject to the Community Standards Bylaw 1916-18 (e.g. for noise) and all enforcement avenue provided therein.
- Patios shall provide a fire extinguisher(s), and shall require a Fire Services inspection.
- Patios may be allowed on City property (e.g. on sidewalks), provided that a pedestrian lane at least 2m wide is maintained.
- Patios must comply with all applicable AHS regulations (e.g. seating arrangements shall provide at least 2m of space between groups of patrons)

The Temporary Patio Policy shall be in effect until October 31, 2021.

LEGISLATIVE BACKGROUND:

At the April 12 Regular Council Meeting, Council Directed administration to explore options for allowing temporary patios for restaurants due to recent COVID-19 restrictions.

ADMINISTRATION'S RECOMMENDED MOTION(S):

(I move) that City Council approve Policy CO-052.

ALTERNATE OPTIONS:

Council may direct administration to amend the Policy before approving.

STRATEGIC PLAN GOALS AND ACTION ITEMS:

This Policy aligns with Council's Strategic Plan goal of building an environment where businesses and citizens can support each other.

POLICIES AND BYLAWS:

This Policy would supercede the Land Use Bylaw 1804-13, so that an amendment to that Bylaw is not necessary.

IMPLICATIONS:

- a) Financial: There is no fee for Temporary Patio applications.
- b) Legal / Risk: None at this time.
- c) Program or Service: This is a temporary program which shall expire on October 31, 2021.
- d) Organizational: No additional staff resources are required; the staff time required to process these permits will be equivalent or less than the time saved by not processing temporary patios under the current Development Permit Process.

STAKEHOLDER OR COMMUNICATION STRATEGY:

Inform (one way communication)

Goal: To provide balanced, objective information to citizens

Tools: Public Notice

NEXT STEPS:

If this Policy is approved, Administration will advertise the process to City business, and carry out the program outlined in the Policy.

APPROVAL(S):

Sue Howard, City Manager

Karin Boddy, Legislative Executive Assistant

Approved - 21 Apr 2021

Approved - 21 Apr 2021

ATTACHMENTS:

[Policy CO-052 - Temporary Patios 4-16-2021](#)

	City of Wetaskiwin Policy	Temporary Patio (April – October 31, 2021)
Policy # CO-052	Approved	Revised

1. Purpose of Policy:

- 1.1. The intent of this policy is to allow the operation of temporary patios on public and private property without a development permit. The policy is a result of Provincial COVID-19 restrictions on indoor dining.

2. Definitions:

- 2.1. “Act” means the Municipal Government Act. R.S.A. 2000 as may be amended from time to time.
- 2.2. “Administration” means the City Manager, support staff to the City Manager, and Executive Team of the City of Wetaskiwin.
- 2.3. “Administrative Directives” means a documented procedure that outlines a consistent approach to carrying out a specific Policy in the day-to-day operations of the organization.
- 2.4. “Applicant” means the individual, business or group formally requesting the Temporary Outdoor Patio.
- 2.5. “City Manager” means the individual appointed by Council to the position of Chief Administrative Officer as per the Municipal Government Act.
- 2.6. “City of Wetaskiwin” the municipality of the City of Wetaskiwin, a body corporate (“the City”) represented by the current elected Council and staff authorized to implement this policy.
- 2.7. “Council Policy” means policy regarding governance, public issues, and services to the public which require Council approval.
- 2.8. “Development Authority” means the Development Authority established pursuant to the Act through this Bylaw.
- 2.9. “Patio” means outdoor seating area related to commercial food and beverage service both for Sidewalk (Public Property) Patios and Private Property Patios.
- 2.10. “Private Lands” means lands not owned by the City of Wetaskiwin.
- 2.11. “Private Property Patio” means a Patio installed within a defined area, within the boundaries of Private Lands, typically for the purpose of serving food and beverages in an outdoor setting to seated patrons.
- 2.12. “Public Lands” means sidewalk area or any other land owned by the City of Wetaskiwin.
- 2.13. “Setback” means the minimum horizontal distance set out within this Policy, which a development must be setback from the property line.

2.14. "Sidewalk Patio" means an area occupying a portion of a sidewalk or other City-owned land which is associated with a business, for the purpose of providing an outdoor area for patrons of that business.

3. Responsibilities:

3.1. City Council to:

3.1.1. Approve by resolution this policy and any amendments.

3.2. City Manager to:

3.2.1. Implement policy and establish administrative directives for carrying out the policy.

3.2.2. Ensure Policy and Administrative Directive reviews occur and verify the implementation of policies and directives.

3.3. Manager of Planning and Development to:

3.3.1. Proceed with enforcement action in accordance with regulations listed in Appendix B, or, as the case may be, enforcement supported by Council Policy Land Use Bylaw - Section 10.5 Enforcement of Orders; as amended, or Business License Bylaw 1933-19; as amended.

3.3.2. Implement this policy and recommend any amendments.

4. General Provisions:

4.1. Declaration Process

4.1.1. The declaration process will be administered by the Development Authority. Prior to submission, the applicant is encouraged to contact Fire Services for a Patio Fire Inspection.

4.1.2. The Applicant is required to provide a Concept Plan which includes:

4.1.2.1. Location of patio delineations (i.e. fencing, ropes, planters, etc);

4.1.2.2. Exterior walls of any adjacent buildings;

4.1.2.3. Property lines for the property on which the patio sits, and setbacks from each property line;

4.1.2.4. All exits from the building which the patio is attached to;

4.1.2.5. Location of all sidewalks, curbs, roadways, and indication of 2.0m pedestrian walkway width;

4.1.2.6. Location of fire extinguishers; and

4.1.2.7. Location of tables and chairs with a minimum 2.0m distance between each seating area.

4.1.3. The Applicant is required to sign a declaration agreeing to the terms and conditions listed in Appendix A.

- 4.1.4. For temporary patios located on Public property, the applicant is required to obtain and maintain during the term of this agreement a general liability policy of insurance as outlined in Appendix B of the Temporary Patio Registration Form.

5. Schedule Review of Policy

- 5.1. The policy will be reviewed November 1, 2021 to summarize the temporary patio program.

6. Reporting

- 6.1. Administration will provide a report to Council as a part of the schedule of review in Section 5 by no later than December 31st, 2021.

Policy CO-052

Appendix A



COVID-19 Temporary Patio Registration Form

Patio Information

Business Name:		Business Address:	
Please select one of the following options:			
Patio is on the Public Right of Way (Sidewalk)		Patio is on Private Property	
Will alcohol be served on the patio?	Yes	No	
A Concept Plan must be attached to this declaration to be deemed complete.			

General Information

Applicant Information	Applicant's Name:	Phone #:
	Email Address:	
Landowner Information	Applicant's Name:	Phone #:
	Email Address:	

Declaration:

I, _____ (the Applicant) hereby declare that the installation and use of the temporary patio, as the case may be (the "Applicant"), will comply with the **General Regulations and Specific Regulations as outlined in Appendix 'A'** for temporary patios located on either Public Property or Private Property, as applicable, and the Provincial Regulations for COVID-19 including, but not limited to, those related to physical distancing.

I understand and agree to abide by the the insurance, indemnification, and release requirements as outlined in Appendix 'A' and Appendix 'B', and I will provide a Certificate of Insurance to the City of Wetaskiwin within 5 days of submitting this application.

I acknowledge this Application and the permission granted thereunder is temporary in nature until no later than November 1, 2021, unless otherwise extended by the City, and may be terminated by the City at any time (unless emergency access is required for Applications in the road right of way, and/or operational safety concerns are identified in which case no notice is required). Any approval or permission by the City of Wetaskiwin regarding the Application does not imply authorization of a permanent patio or retail space nor imply approval for matters under Provincial jurisdiction. Currently, there are no applicable City fees or charges for the Application excepting any fees associated with proposed structures in excess of the above-noted Guidelines. In the event of termination, I agree to remove all improvements related to this Application at my sole expense.

Patios located on Public Property

I, the Applicant, hereby declare that the installation and use of the temporary patio will be kept in good condition and will be easily removable if the City requires access to the Public Property. I, the Applicant, understand that I am responsible for damage caused to City concrete or asphalt due to neglect.

 Applicant Name (Corporate Name)

 Date

 Name of Signatory, Title

 Signature



Concept Plan

Concept Plan must illustrate and indicate:

1. Location of patio delineations (i.e. fencing, ropes, planters, etc);
2. Exterior walls of any adjacent buildings;
3. Property lines for the property on which the patio sits, and setbacks from each;
4. All exits from the building which the patio is attached to;
5. Location of all sidewalks, curbs, roadways, and indication of 2.0m pedestrian walkway width;
6. Location of fire extinguishers; and
7. Location of tables and chairs with a minimum 2m distance between each seating area.

Draw your concept plan in the grid below.

All setbacks from proposed buildings/temporary patios to property lines must be included.

Setbacks (must be in meters):

Front:

Rear:

Side 1:

Side 2:

Barrier/Fence type:

Barrier/Fence height:



APPENDIX A

General Regulations for all Temporary Patios

Provisions that apply to all:

1. Temporary patios shall only be permitted for Drive-In Food Service, Restaurants, Pubs and Lounges, and Nightclubs and Bars operating under an existing valid Development Permit and Business License.
2. Temporary patios permitted under this policy directive shall extend no later than October 31, 2021; however, the City may terminate the permissions with notice in the event of an emergency and/or operational safety concerns, or non-compliance with this Policy or any other City Bylaw.
3. Temporary patios must be constructed according to the Concept Plan submitted with this application. Any change from the original Concept Plan requires a new Concept Plan to be submitted to the City.
4. Temporary patios are permitted to operate from 7:00 to 22:00.
5. A site inspection will occur within two (2) weeks of submitting this application.
6. The Applicant is responsible for obtaining all relevant permissions (AGLC, AHS, property landowner, and other relevant regulatory bodies) before opening a temporary patio.
7. All activities related to patios (particularly noise and other nuisance) shall be subject to the City's Community Standards Bylaw 1916-18. The City may terminate the permissions in the event of contraventions of this policy and/or the City's Community Standards Bylaw 1916-18.
8. Temporary patios must not extend in front of any building exit.
9. Temporary patios must not extend in front of adjacent tenant spaces or beyond business frontages without written permission from affected adjacent property owners and tenants; this includes any overhanging elements.
10. Temporary patios must not affect vehicular/pedestrian traffic flow on public property and on private property.
11. Permanent fences and barriers, portable toilets, platforms, decks, or stages are not permitted.
12. A temporary patio must be suitably defined or enclosed by planters, rope, railing or similar movable barriers.
13. When a temporary patio with capacity for more than 60 people is enclosed by a temporary perimeter fence, it must have at least two separate exits. Only one exit is required where a temporary patio has a capacity up to 60 people. Exit openings must be at least 1.10m in clear width and provided with the exit signs where not clearly visible to patrons.
14. Exit gates must swing freely outward from the temporary patio during hours of operations.
15. Temporary patios must not encroach into existing loading zones or Accessible Parking Stalls.
16. Fire extinguisher (10lb Dry Chemical Fire Extinguisher) must be provided within 10 m (32 ft) of any part of the temporary patio.



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17. ULC- or CSA- certified electric or propane patio heaters (with max 20lb tank) are permitted where located at least 3m (10 ft) away from City tree branches, operated per the manufacturer's directions and must be stored off the road right-of-way when not in use. Solid-, gel- or liquid- fuel fire features are not permitted. Any heater intended for use inside a tent or canopy is subject to City approval. Propane tanks must be store off-site or in an outdoor storage area.
18. Wheelchair access must be provided to, and throughout, the temporary patio.
19. Tent or canvas structures with a roof structure cannot have more than one (1) enclosing wall as per Alberta Health Services requirements.
20. Temporary patios may have more than one (1) enclosing wall if there is no roof structure attached to the wall as per Alberta Health Service requirements.
21. Cooking, food, or drink preparations is not permitted on temporary patios.
22. The Applicant is responsible for maintaining any structures and equipment in a safe and clean condition and in good repair.
23. City power receptacles shall not be used for any temporary patio purposes.
24. Temporary patios associated with direct food service must provide washroom facilities.
25. Patio seating must be limited to a maximum of six (6) people per table – individuals must be from the same household or the 2 close contacts for a person living alone.
26. Tables and dining parties must be 2.0 m apart or separated by an impermeable barrier that will prevent droplet transmission.
27. Individuals must stay seated with their dining party unless using the washroom, paying, or entering/exiting the facility. Masks must be worn indoors.
28. Contact information must be collected from one person of the dining party.
29. Temporary Patios must comply with all other AHS regulations.



Specific Regulations for Temporary Patios located on Public Property:

Provisions that apply to Temporary Patios located on Public Property:

- 30. A temporary patio may operate on the public sidewalk directly in front of the business. A clear path of pedestrian travel of minimum 2.0m (6'6") must be maintained on the public sidewalk.
- 31. A minimum 2.5m (8.2ft) clearance from fire department (Siamese) connections and hydrants must be maintained on a temporary patio.
- 32. Temporary outdoor patio shall not contain any structures, permanent or temporary, except for tables, chairs umbrellas, heaters, temporary movable patio perimeter fencing/barriers and temporary movable patio perimeter planters. Any temporary movable patio perimeter fencing/barriers must not exceed a height of 1.2m (4ft) above grade.
- 33. The business owner is responsible for ensuring public property is remains in clean condition and in good repair. The business owner is responsible for damage caused to City concrete or asphalt due to neglect.

Specific Regulations for Temporary Patios located on Private Property:

Provisions that apply to Temporary Patios located on Private Property:

The temporary patio shall be contained within the required setbacks as listed below.

Property Setback Requirements:

C1 – Downtown Commercial District Regulations Front Yard Setback: 1.5m Side Yard Setbacks: 1.5m Rear Yard Setback: 1.0m	C5 – Shopping Centre Commercial District Regulations Front Yard Setback: 2.0m Side Yard Setbacks: 1.5m Rear Yard Setback: 1.0m
C2 – General Commercial District Regulations Front Yard Setback: 2.0m Side Yard Setbacks: 1.5m Rear Yard Setback: 1.0m	DDO – Downtown District Overlay Front Yard Setback: 2.0m Side Yard Setbacks: 1.5m Rear Yard Setback: 1.0m
C3 – Highway Commercial District Regulations Front Yard Setback: 2.0m Side Yard Setbacks: 1.5m Rear Yard Setback: 1.0m	M1 – Light Industrial District Regulations Front Yard Setback: 2.0m Side Yard Setbacks: 1.5m Rear Yard Setback: 1.0m
C4 – Neighbourhood Commercial District Regulations Front Yard Setback: 2.0m Side Yard Setbacks: 1.5m Rear Yard Setback: 1.0m	M2 – Heavy Industrial District Regulations Front Yard Setback: 2.0m Side Yard Setbacks: 1.5m Rear Yard Setback: 1.0m

Separation Space Requirements:

- 34. Tent or canvas structures are required to have a 2.0m (6.5 ft) setback from the wall of existing buildings on site.



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APPENDIX B

Insurance

Insurance required:

For temporary patios located on Public property, the applicant is required to obtain and maintain during the term of this agreement a general liability policy of insurance which includes without limitation the following provisions:

- The policy to contain a cross liability clause or severability of interest clause;
- Minimum limits of \$2,000,000.00 all-inclusive including bodily injury & property damage, contractual liability, host liquor liability, and products and completed operations; and
- Shall not contain any special limitations on the scope of coverage afforded the City, its officers, officials, employees, agents, or volunteers.

Certificate of Insurance

The Grantee shall file with the City an annual Certificate Insure at the following address:

Attention: Development Services
City of Wetaskiwin
4705 – 50 Avenue
Box 6210
Wetaskiwin, AB
T9A 2E9



APPENDIX C

INDEMNIFICATION AND RELEASE

- The City will not be responsible in any way for any injury to any person or any loss or damage to any property however caused, belonging to the Applicant or to employees, agents, invitees or licensees of the Applicant while such person or property is in or about the area of road right of way permitted to be used under this Application. In no event shall the City be liable to the Applicant for any indirect or consequential damage however caused, including, without limiting the generality of the foregoing, whether or not they would otherwise be considered indirect or consequential loss.
- The Applicant shall:
 - a. be liable to the City for, and
 - b. indemnify and save harmless the City, its servants, agents and employees from and against;

any and all losses, liabilities, claims, suits, actions, demands, expenses, damages and costs (and without limiting the generality of the foregoing, including solicitor and client costs) which may be brought or made against the City or which the City may pay or incur and which arise out of or in connection with:
 - i. any of the rights or privileges granted to the Applicant pursuant to this Application;
 - ii. any breach, violation or non-performance of any covenant, condition or guideline related to this Application to be fulfilled, kept, observed or performed by the Applicant;
 - iii. any damage to any property or injury to a person or persons, including death resulting at any time therefrom, occasioned by the use of the road right of way by the Applicant, its servants, agents, employees or licensees;
 - iv. any damage to any property or injury to a person or persons, including death resulting at any time therefrom, arising from the escape, discharge or release of any gaseous, liquid, or solid hazardous substances including, but not limited to, petroleum products and byproducts, industrial wastes, contaminants, pollutants, dangerous substances, and toxic substances, as defined in or pursuant to any law, ordinance, rule, regulation, bylaw or code, whether federal, provincial or municipal, occasioned by the use of the road right of way, by the Applicant, its servants, agents, employees or licensees;
- This Indemnification shall survive the termination of use of the road right of way.