

**2020 SEASON RIGHT OF WAY ACTIVITY APPLICATION FOR  
OUTDOOR PATIOS ON TOWN OF NEWMARKET MUNICIPAL PROPERTY**

**Returning Applicants Form**

Please ensure all information is included in the application. Incomplete applications will not be accepted. Please return this application by 4:00 PM on March 27<sup>th</sup>, 2020.

Business Information	
Owner Name:	
Phone Number:	
Registered Name of Business:	
Operating Name of Business:	
Street Address of business:	
Postal Code:	
E-Mail:	
After Hours Contact 1 Name:	
Phone number:	
After Hour Contact 2 Name:	
Phone Number:	

Checklist	
Requirement	X
Complete outdoor serving area application (this form)	
AGCO liquor license for principal establishment and patio	
Copy of current liability insurance (see appendix B)	
Outdoor serving area license fee payment cheque	
Patio sidewalk lease payment cheque	

Fees	
Outdoor serving area license fee	\$374.00 (note that only businesses selected to have a patio will have this cheque cashed)
Patio sidewalk lease	\$0.50 per square foot of the patio (\$1.8580608 per square metre) per month  Example: 300 square feet times \$0.5 times six months is \$900.00

Applicants are encouraged to also review the following guidelines and requirements to ensure their application and operations are in compliance with Town expectations.

Returning applicants should indicate if their proposed patio differs from the previous year, and if so how it differs. Returning applicants are not guaranteed that their applications will be approved.

**Returning applicants should review the design requirements of this application in its entirety, as changes may be required to your patio.**

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**Appendix A – Site Plan and Design Requirements**

**Appendix B – Liability Insurance Requirements**

**Appendix C – General Conditions**

**Appendix D – Post-submission evaluation**

I/We hereby make application to the Corporation of the Town of Newmarket (“heretofore and hereafter “the Town”) to occupy the right of way for the purpose described and agree to abide by the conditions of this permit and other applicable Town bylaws. I/We agree to assume all liability and/or cost as a result of road occupancy to maintain the work area and to indemnify and save harmless the Town. I understand this is a competitive process and that application for a patio does not guarantee that I will be selected. I understand that the project is not guaranteed to continue in future years.

**I/We confirm that the proposed patio design is identical to that which was approved for the 2019 patio season.**

**Agreement**

I, THE UNDERSIGNED HAVE READ AND UNDERSTOOD THE INFORMATION PROVIDED AND AGREE TO ABIDE BY ALL CONDITIONS AND PROVISIONS LISTED ON THIS PERMIT APPLICATION, AND PERMIT IF ISSUED.

Authorized Representative Signature:

Date:

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## Appendix A – Site Plan and Design Requirements

**Your patio design must conform to the following requirements.**

### Site Plan Requirements

- a. Location and dimension of the building, and the entrances, exits, and washrooms
- b. Location and use of the adjacent buildings and their entrances and exits.
- c. The location and dimensions of the patio and its entrances and exits.
- d. Area of the patio in square metres
- e. Width of sidewalk occupied in metres
- f. Length of sidewalk occupied in metres
- g. Number of parking spaces occupied by a patio or sidewalk extension
- h. Width of sidewalk that will remain unobstructed
- i. The location and dimension of any enclosures, umbrellas, tents, awnings, etc.
- j. The location, height, and construction material to be used for the boundary fence, gate location, and width of gate
- k. Location of fire extinguishers
- l. Location of tables, chairs, other furniture or installations, etc. and the distance between them to demonstrate how your patio will be accessible to patrons with limited mobility
- m. Temporary sidewalk design, location and dimensions, grade, construction material and Engineers Certificate for safety and load bearing, if required
- n. Location of all municipal services and/or assets within or adjacent to the patio (e.g. location of curbs, municipal parking spaces, sidewalks, hydrants, storm sewer grates, manholes, trees, hydro poles, streetlights, benches, garbage cans, sign poles, etc). Identify whether any of these elements would need to be removed or relocated to accommodate the design.
- o. The access to municipal improvements such as trees and shrubs
- p. The location of York Region Transit stops close to the patio
- q. The location of curb cuts close to the patio
- r. The address of your business
- s. The width of the sidewalk at each point of your frontage where it varies
- t. The width of the sidewalk as it will be with your proposed patio
- u. The length of the sidewalk impacted by your patio
- v. The number of parking spaces required to be occupied (if any)
- w. The number of seats on your patio
- x. The maximum occupant load of your business and patio according to the Ontario Building Code

**Design Requirements**

- a. All patios must maintain the requirements of the Accessibility for Ontarians with Disabilities Act. These guidelines set out basic requirements of the AODA. It is the responsibility of each business to ensure their own compliance with the Act.
- b. A minimum passable sidewalk width of 1.5m must be maintained at all times to ensure accessibility for pedestrians. 1.8m minimum width is preferred.
- c. Patios are not permitted to reduce the width of the traffic lanes of the public street. A minimum street width of 6m must be maintained at all times to ensure adequate width for emergency vehicles
- d. Patios are not permitted to occupy more than 2 parking spaces.
- e. Entrances to the patio, aisles within the patio, and all public areas must be maintained in a manner that ensures the accessibility of patrons of all levels of ability.
- f. Design materials must be in keeping with the heritage character of downtown Newmarket. Plastic and polyvinyl is not permitted. Composites are permitted provided their appearance mimics the above-described materials. For input on potential design concepts, contact the Economic Development department.
- f. Awnings, umbrellas, and other surfaces must be maintained without advertising. Businesses proposing materials including advertising must receive approval in advance of installing any such objects.
- g. Exterior barriers onto on-street parking spaces must be affixed with high-visibility reflective markers for nighttime visibility.
- h. Barriers between the sidewalk extension and the street should feature planting boxes.
- i. No objects are permitted to overhang the road or sidewalk.
- j. The Applicant may only occupy and use the outdoor patio after any installed structures have been approved in writing by the Town.
- k. Wooden sidewalk extensions must include safety traction tape to reduce the chances of pedestrians slipping and be installed in such a manner as is satisfactory to the Town.

**Appendix B – Liability Insurance Requirements****Please provide proof that you are compliant with the following liability insurance requirement**

You must hold and provide General Liability Insurance from an insurer licensed in the province of Ontario for \$2 million per occurrence with an aggregate limit of no less than \$5 million to the Corporation of the Town of

Newmarket against any liability for property damage or personal injury, negligence including death which may arise from the applicants operations under this agreement. The Corporation of the Town of Newmarket must be included as an “Additional Named Insured”. In addition the Commercial General Liability shall contain Cross Liability and Severability Clauses and Products & Completed Operations coverage including a standard contractual liability endorsement.

### **Appendix C – General Conditions**

**Your operation of an outdoor patio must conform to the following requirements.**

#### **General conditions**

- a. Any person or persons intending to occupy a portion of the municipal right of way for any purpose, including a portion of the sidewalk, boulevard, or on-street parking must first receive permission from the Town.
- b. Patios will not be installed before **May 11<sup>th</sup>** and will be removed no later than **October 30<sup>th</sup>**.
- c. Permission to install a patio for the 2020 season does not entitle a business to any right or expectation to be able to install a patio in subsequent seasons.
- d. Any required sidewalk extensions must be completed before obstruction of a sidewalk for construction or operation of a patio.
- e. The applicant assumes all maintenance and liability for the patio structure and sidewalk extension and may be required to undertake or alterations or repairs as are required by the Town to maintain safety and accessibility.
- f. The Town retains the right to access the patio and/or sidewalk extension if needed for maintenance or emergency access to Town property.
- g. Permission to occupy the municipal right of way becomes null and void if the applicant should fail to meet the requirements set out in this application and other applicable documents, in which case, the Town shall be at liberty to take any action it deems necessary to repair the patio structure or to reinstate the site to its original condition for public protection at the expense of the applicant. In all cases the decision of the Town is final.
- h. The applicant shall maintain access to all public and private properties for the duration of the work.
- i. All municipal property, including the sidewalk, roadway, lighting, or other features will be returned to their initial condition or repaired of any

- damages. Damages not repaired by the applicant will be repaired or replaced by the Town at the applicant's cost.
- j. No business shall be eligible to operate an outdoor patio unless the business is in compliance with all Town requirements.
  - k. The Applicant shall be deemed to be the "constructor" and the "owner" for all purposes under the Occupation Health and Safety Act. The Applicant shall further be deemed to be the "occupier" for all purposes under the Occupiers Liability Act.
  - l. The Applicant agrees to indemnify and save the Town harmless from and against all losses, damages, actions or causes of action, suits, claims, demands, penalties, interest and/or legal fees on a substantial indemnity basis arising in connection with any matter that may arise from the issuance of a permit hereunder or the activities that occur on a patio or sidewalk extension.
  - m. The Town retains the right to access any planters, baskets, light posts, or other infrastructure for watering, maintenance, or other matters. The Town may elect not to install planters at the location of the patios.
  - n. Any costs, expenses or liabilities incurred by the Town as set out above may be collected by the Town from the Applicant in the same manner as municipal taxes.
  - o. The Applicant agrees to provide the Town with a letter from a qualified person, after construction of the sidewalk extension and before beginning operations, confirming that construction completed is in general conformance with the approved design.
  - p. The Applicant agrees to clean the area around and under the patio with the use of a pressure washer following the removal of the patio.

### **Operating Requirements**

- a. Restaurants operating an outdoor patio must be open at a minimum during the following hours: Tuesday to Sunday: 11:30 AM to 9:00 PM
- b. The operations of the business and patio must be in compliance with the Town's Noise By-Law (2004-94) as amended.
- c. The owner shall ensure that the area around the patio is kept clear of litter, waste, cigarette butts, and refuse.
- d. No person shall operate an outdoor patio on any municipal property other than that for which permission has been granted.
- e. No person shall permit the consumption of alcoholic beverages within any outdoor patio area unless such area is licenced under the provisions of the Liquor Licence Act to permit the consumption of alcoholic beverages and

unless such outdoor patio extension is operated in conjunction with a business holding a valid Liquor Licence.

- f. Where such premise is licenced to permit the consumption of alcoholic beverages, no person shall serve or allow the consumption of alcoholic beverages contrary to any law.
- g. Outdoor patio operations are only permitted during hours authorized by the Town. Patios are permitted to be open only during the hours between 9:00 AM and 11:00 PM. The Town reserves the right to change these hours.

### **Appendix D – Post-submission evaluation**

Submission of a complete application is not a guarantee of permission being granted for an outdoor patio. Applications will be evaluated by staff to determine which will be selected. Applications will be circulated to appropriate departments and partner organizations for their comments.

Applications will be reviewed to ensure the appearance reflects the heritage nature of the downtown.

#### **Criteria**

<b>Criteria</b>	<b>Explanation</b>
Location	Sites that are located in ways that are complementary to the existing street design and require less extensive change to existing use and management patterns will be preferred.
Design	Material choice – Appropriate heritage materials and design.
	Streetscape – Attractive design elements for both patrons and pedestrians.
Safety	Sites that pose fewer challenges to traffic and pedestrian movement and sightlines will be preferred.
Accessibility	Sites that more fully ensure the accessibility of the sidewalk and patio for all patrons, in part through greater sidewalk width, will be preferred. Sites should not reduce accessibility by proposing the displacement of parking designated for persons with disabilities.
Potential	Preference will be given to patios that offer greater potential to demonstrate the economic benefit of the program.

**Questions?**

**Economic Development:** Chris Kallio, Economic Development Officer  
[ckallio@newmarket.ca](mailto:ckallio@newmarket.ca)

**Licensing:** Florence DiPassio, Licensing Officer  
[fdipassio@newmarket.ca](mailto:fdipassio@newmarket.ca)

**Patio Program:** Ted Horton, Planner  
[thorton@newmarket.ca](mailto:thorton@newmarket.ca)

**Public Works:** Jeff Bond  
[jbond@newmarket.ca](mailto:jbond@newmarket.ca)