

Staff Report



To	Committee of the Whole
Service Area	Infrastructure, Development and Enterprise Services
Date	Wednesday, July 5, 2023
Subject	Permanent Seasonal Patio Program

Recommendation

1. That the Seasonal Patio Program as described in the Permanent Seasonal Patio Program report dated July 5, 2023 be approved pending budget approval as part of the 2024-2027 multi-year budget.
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Executive Summary

Purpose of Report

The City of Guelph’s 2022-2026 Economic Development and Tourism Strategy identifies two goals in fostering a distinct, resilient, and bold centre for innovation, creation, and community. First, expanding support for existing businesses and second, building a must-see visitor destination in Ontario. The purpose of this report is to provide engagement results, overall costs for the 2021-2023 Seasonal Patio Program and to seek approval for a permanent Seasonal Patio Program to take effect in 2024 to support these goals.

The recommended changes shift the successful Seasonal Patio Program from a pandemic mitigation and recovery program to a permanent destination asset that supports economic opportunities, while balancing the needs and expectations of the business community, residents and visitors.

Key Findings

The Seasonal Patio Program as a COVID-19 pandemic relief measure for businesses has become a valuable destination asset for the City of Guelph. Businesses that participated in the program experienced positive economic impact in sales and in the ability to hire and retain staff. Visitors to patios also indicated positive experiences with the program and a strong desire for it to continue.

Businesses that did not participate in the program indicated some challenges with the program around parking access and activation of seasonal patios in the downtown, but the majority wish to see the program continue. Recommended changes to the 2021-2023 Seasonal Patio Program are presented to maintain participation of patio operators while mitigating impacts to non-patio operators and ensuring that City service levels can be adequately maintained in a permanent program.

An active use clause and restrictions on patio size to mitigate parking impacts was considered but potentially could negatively impact business participation in the

program. Private property patios can be better supported by the building permit and liquor licensing process through the updated Zoning By-law (2023)-20790 and as such, only public patios are included in the recommendations.

To support cost recovery of the program and attribute fair value of public space for commercial use, updated fees are recommended to adhere to the approved [User Fee By-Law \(2021\)-20655](#). Using the approved fee schedule for 2023, and subject to annual inflation escalation, as a reference framework, this will include:

- One-time Seasonal patio application fee: \$171.00 + HST
- One-time Seasonal patio agreement fee: \$228.00 + HST
- Annual seasonal patio inspection fee: \$260.00 + HST
- On-street rental fee: \$10 per square meter per month + HST

Accessibility staff will conduct training and provide support in bi-annual inspections to ensure compliance with the Building Code and approved patio drawings to support inclusion and compliance in the use of public space. New waste management plans will be required and opportunities for education will support cleanliness and easier access for Solid Waste staff during patio activation.

Strategic Plan Alignment

Powering our Future

Guided by the [Powering our Future](#) pillar in the [2019-2023 Strategic Plan](#), the Seasonal Patio Program fosters downtown business innovation to support a thriving downtown Guelph through the flexible use of public space and is a valuable economic and destination asset that contributes to [building a must-see visitor destination in Ontario](#).

Building our Future

The Seasonal Patio Program also contributes to the [Building our Future](#) strategic pillar as an evolving asset that supports Guelph's growing and changing social and economic needs.

Financial Implications

To maintain service levels for businesses and City operations, the permanent Seasonal Patio Program as proposed is anticipated to cost \$175,000 annually and the program budget will be referred to the multi-year budget for approval. This cost is inclusive of infrastructure, staffing, and regular maintenance associated with the Seasonal Patio Program. To mitigate the impact to future operating budgets from implementing a permanent program, staff are exploring using the Municipal Accommodation Tax to fund a portion of the program costs. Updated annual fees will support cost recovery of regular maintenance and staff time associated with patio inspections, while considering affordability to maximize the number of participants in the program.

Report

Guelph is known for its charming and vibrant downtown where the city's unique retail, food and beverage scene sits amongst the community's historical and cultural backdrop. Initiatives like the Seasonal Patio Program are important economic and destination development opportunities that provide businesses the

ability to extend their offering and contribute to an enhanced atmosphere and signature experience for residents and visitors.

While the three-year Seasonal Patio Program was initially put in place to support businesses through COVID-19 public health impacts and recovery ([report IDE 2021-2023 Seasonal Patio Program – 2021-50](#)) it also served as an opportunity to reimagine how the City can approach the flexible use of public space to provide new opportunities for activation. These activations contribute to the long-term success of Guelph as a must-see visitor destination in Ontario in alignment with the City’s Economic Development and Tourism Strategy.

2021-2023 Seasonal Patio Program

Building upon the 2020 Temporary Patio Program that was created in response to COVID-19 forced closures the three-year Seasonal Patio Program prioritized flexibility for the operation of patios given the unknown impacts of the pandemic and fluctuating public health restrictions on the use of indoor dining and retail space. All business types in all areas of the city were able to apply for a seasonal patio in 2021 with expedited approval processes, waived fees, and extended program timelines.

Participation

There was a noticeable increase in participation from the 2020 Temporary Patio Program to the 2021-2023 Seasonal Patio Program, signaling program adoption as a value to the businesses and a willingness to invest in activation of the public realm. Participating patio operators benefited from a dedicated point of contact and staff member to support and navigate the application process and coordinate the installation, and removal of seasonal patios each year.

Seasonal Patio Participation (by property type):

	Public Property Operators	Private Property Operators
2020	29	34
2021	35	25
2022	33	17
2023	33	13

2021-2023 Program feedback

User Survey

At the conclusion of the three-year program an external survey was conducted to gather feedback on challenges and opportunities experienced by patio operators, non-operators, and patrons. The survey was conducted between December 12, 2022, and January 13, 2023. 23 patio operators, 21 non-patio operators, and 801 patrons completed the survey.

The full report is available in Attachment-1 2022 Seasonal Patio Program Engagement Survey Report.

Patio Operators

Of the 23 patio operators who completed the survey, 21 operated in the downtown. 91 percent of downtown operators reported a positive impact to their business' ability to generate revenue and increase or maintain staffing levels through the patio season. 91 percent indicated a desire for the program to continue past the 2023 season.

Summary of patio operator feedback:

- The program increased downtown visitation, business revenues, and contributed to an overall European-feel and vibrancy in the core.
- The program application and implementation processes were easy, and the levels of communication and coordination were effective.
- Some of the patios were considered too large and that mitigation efforts should be undertaken to reduce impacts to parking.
- Length of the program was appreciated.

Non Patio Operators

Of the 20 non-patio operators who completed the survey, 71 percent reported the Seasonal Patio Program had a positive or no impact on their business' employment opportunities. 65 percent indicated a desire for the program to continue past the 2023 season.

Summary of non-patio operator feedback:

- Activation requirements should be considered for patio operators using public parking spaces so that all patios installed are used consistently and contribute to the overall look and feel of the streetscape.
- Parking and food service delivery impacts are challenging, and more short-term spaces should be offered.
- There is dissatisfaction with a lack of solutions offered for large delivery vehicles to downtown businesses.
- Size restrictions to patios should be implemented to ensure balance between parking and activated space.

Patrons

With 801 responses from patio patrons, 97 percent indicated a desire for the program to continue beyond 2023. Consistent themes in the appeal of the program as well as suggestions for improvements arose from patrons and included:

- The appeal of an enhanced atmosphere and European feel of activated public space.
- Appreciation for safe and expanded dining options during pandemic.
- Challenges with finding parking.

Consultations

Staff Engagement

City Staff were consulted on service and workplan impacts associated with the Seasonal Patio Program. Feedback on program dates, application process, and accessibility education opportunities have been incorporated into the recommendations.

Accessibility Advisory Committee

Engagement with the Accessibility Advisory Committee (AAC) occurred in [2022](#) and [2023](#) to inform improvements made to the current program, as well as recommendations that have been incorporated into the permanent program. These recommendations include:

- A checklist based on design requirements in the City's Facility Accessibility Design Manual and the Building Code that is distributed to applicants and added to the City's website, along with a document outlining the buying power of people with a disability.
- Security staff conducting patio inspections receive training from Accessibility Services staff on the inspection checklist.
- Accessibility staff participate in bi-annual inspections.
- Report a Problem map includes the ability to note concerns with patio accessibility.
- Informing the AAC when relocating accessible parking spaces as part of the Provincial requirement and to locate the space to the nearest location possible.

The focus of support for businesses is on education of Accessibility requirements for patios, therefore recommendations made by the AAC to implement monetary fines for non-compliance are not included in the proposed program.

The AAC will continue to be consulted on any changes to accessible on-street parking spaces and updates to the program throughout each patio season and program evaluation.

Downtown Guelph Business Association

Feedback on proposed recommendations for improvements to the Seasonal Patio Program for all businesses was gathered from the Downtown Guelph Business Association (DGBA) on January 18, 2023, and April 19, 2023, and has been incorporated into the recommendations. Concerns were brought forward around the Active Use Clause that would limit participation of night-life oriented businesses operating a Seasonal Patio Program. Opportunities for beautification and patio enhancement will continue to be explored by the DGBA to support patio activation.

Tourism Advisory Committee

Feedback gathered from the Tourism Advisory Committee for improvements to the Seasonal Patio Program have been incorporated. Recommendations for program enhancements that support increased tourism will continue to be explored.

New Seasonal Patio Program

Staff are recommending that a permanent Seasonal Patio Program be established with updated program parameters and resources.

Principles of the Seasonal Patio Program

In line with the approved 2021 – 2023 Seasonal Patio Program and incorporating lessons learned, the principles of the permanent program are:

- Providing fair opportunities for the use of public space to support businesses and destination development.
- Promote inclusion for businesses and patrons alike.
- Encouraging flexibility with a changing and growing downtown.

Recommendations to support the principles of the Seasonal Patio Program are presented below as adjustments to the 2021-2023 Seasonal Patio program.

Key annual program dates

Given very limited use of patios in April and October as well as the resource strain on operations staff at this time for leaf collection and winter control, it is recommended that key patio program dates are updated.

- February 1 – applications and renewals open
- April 1 – existing business applications and renewals close
- First weekend in May – barrier drop off and patio installation begins
- Last weekend in September – all patios off-street by end of day Friday and barrier removal Saturday and Sunday

New businesses that open within the patio season will be able to apply for a patio until August 15 of each year, dependent on available infrastructure and budget.

Applications

Updated design specifications in accordance with the Building Code will be incorporated into the application process, while removing COVID-19 distancing measures from patio layout requirements. Pre-approved patio drawings will still be provided as an option for businesses that do not want to go through the building permit process for a seasonal patio. Drawings will need be reviewed with any updated changes to the Building Code.

Fee Structure

As the Seasonal Patio Program shifts from a pandemic recovery effort to a destination and economic development opportunity for expanded business operations and activation, the proposed new and updated fees are intended to recover administration and staff time associated with the processing of applications and required inspections. These fees will be adjusted annually per the User Fee By-law (2021-20655) and annual fee schedule but are proposed under current rates as follows:

- One-time Seasonal patio application fee: \$171.00 + HST
- One-time Seasonal patio agreement fee: \$228.00 + HST
- Annual seasonal patio inspection fee: \$260.00 + HST
- On-street rental fee: \$10 per square meter per month + HST

One-time Fees

The fees for applications and encroachment agreements which were waived in the previous program will be re-instated in the permanent program.

Annual Fees

The new annual seasonal patio license is recommended to recover costs associated with required inspections and administration of the program.

The on-street patio fee of \$3 per square meter, established in 2021, was in alignment with other temporary patio programs quickly introduced across Ontario to support economic recovery. Staff recommend increasing this fee to \$10 per square meter per month to better reflect the value of using the public right-of-way for commercial purposes.

More information on the Seasonal Patio Program fees is available in Attachment-2 Updated Seasonal Patio Program Fee Guide.

Private Property Applications

Private property patios will no longer be included in the Seasonal Patio Program. Businesses who wish to establish permanent patios on private property can apply through the regular building permit and liquor licensing process. The updated Zoning By-law (2023)-20790 allows for setbacks consistent in the Encroachment By-law and has removed capacity limitations.

City Lands Encroachment By-law (2009)-18799

The City Lands Encroachment By-law (2009)-18799 will need to be amended to include the Seasonal Patio Program Guideline requirements. Upon the approval of the Recommendation in this Staff Report, staff will bring forth an amending by-law to amend the City Lands Encroachment By-law (2009)-18799, as necessary.

Other considerations

Downtown Revitalization

The Seasonal Patio Program will require flexibility and adjustments as the City's Downtown Renewal efforts continue, particularly the Downtown Infrastructure Renewal Program. Staff will continue to support the flexible use of public space and provide opportunities for sidewalk and parking space activation through the Seasonal Patio Program during this work and adjust the program as work is completed to reflect new street designs and infrastructure.

Accessibility

To ensure that built patios align with drawings and follow the building code, bi-annual inspections will now include a member of the Accessibility team and additional training for Bylaw staff. The inspections checklist related to accessibility has been added to the website and is included in the program guidelines shared with patio operators. The Accessibility Advisory Committee (AAC) is advised of any accessible parking space that is moved because of the Seasonal Patio Program.

In consultations with the AAC, recommendations for increased education and enforcement for Facility Accessibility Design Manual (FADM) adherence is expected to continue through collaboration with Accessibility and Seasonal Patio Program staff. Road closures are not recommended by the AAC.

Parking

Fifteen minute loading space locations and quantities were evaluated during the 2021-2023 Seasonal Patio Program to support deliveries in the downtown. To accommodate increased demand for these spaces new and relocated spaces were implemented in the following locations:

- One new loading space at the northeast corner of Wyndham Street North at Macdonell Street (2021)
- Two new loading spaces on Macdonell Street east of Wyndham Street North (May 2022)
- Relocated loading space South of Quebec Street intersection with Wyndham Street North (May 2022)

Further opportunities to address deliveries and short-term parking needs are being evaluated with the Downtown Parking Master Plan.

Active Use and Beautification

To encourage ongoing activation and enhancement of installed patios, staff will continue to collaborate with the business community and Downtown Guelph Business Association on beautification and presentation efforts for ongoing animation of public space.

Maximum Patio Size

Restrictions to maximum patio size were considered to mitigate the impacts to on-street parking supply and support equitable access to public space in the Downtown for all businesses. It was determined that patio size restriction could negatively impact business participation in the program, but staff will continue to evaluate these measures.

Waste Collection

In partnership with Solid Waste Services, education resources and waste management plan templates were provided to all Downtown operators for the 2023 season to support waste collection and promote cleanliness. An approved waste collection management plan will be mandatory in all future applications.

Legislation Impacts

Effective January 1 2023, the [Alcohol and Gaming Commission of Ontario](#) established a new framework for temporary outdoor physical extensions. The associated approval process has been incorporated into the current program and requires all operators of a temporary seasonal patio to submit Municipal approval to the AGCO annually.

Financial Implications

Approved Budget Associated with Pilot Seasonal Patio Program

In 2021, costs associated with the Seasonal Patio Program were \$381,585 which was funded \$294,700 from the Provincial Safe Restart Grant and \$86,885 from the Tourism budget. The tax funded portion was a result of barrier purchases associated with an unanticipated participation rate increase in the Downtown.

Also in 2021, an additional \$167,000 of the Tourism Recovery Fund provided funding directly to businesses to support patio development and expansion.

In 2022 and 2023, the approved budget for the seasonal patio program was [\\$43,000](#). Additional staffing costs were covered through existing operating budgets. These additional expenses in 2022-2023 brought the total cost of the program to an estimated \$178,000 per year.

Proposed Permanent Program Budget

The total costs associated with the implementation, maintenance, and staffing for maintaining service levels required to operate the permanent Seasonal Patio Program annually is \$175,000. If approved through the multi-year budget process, the budgeted expenses will be funded from the associated user fee revenue and the Municipal Accommodation Tax Reserve.

Within the Tourism budget:

Total Expenses	\$175,000
Anticipated User Fees	\$70,000
Transfer from MAT	\$105,000
Impact to Tax Levy	\$0

Provincial and Federal funding to support further investment in the seasonal patio program will continue to be explored to offset program costs.

Annual program operating costs will be monitored and evaluated each year to assess sustainability, affordability, and opportunities for process improvements. The results of the Downtown Parking Master Plan will inform revisions to the on-street patio fee. Staff will also ensure any future Council approved strategies that impact the program or associated fees are reflected in program revisions.

Consultations

Krista Walkey, General Manager, Planning and Building Services

Jeremy Laur, Chief Building Official, Planning and Building Services

Pat Sheehy, Program Manager of Zoning, Planning and Building Services

Stacey Laughlin, Downtown Revitalization Advisor, Office of the CAO

Terry Gayman, General Manager, Engineering and Transportation Services

Steve Anderson, Manager of Transportation Engineering, Engineering and Transportation Services

Jamie Zettle, Program Manager of Parking, Engineering and Transportation Services

Robin Gerus, General Manager, Guelph Transit

Doug Godfrey, General Manager, Operations

Dustin Gronc, Manager of Corporate and Community Safety, Operations

Tara Baker, General Manager/City Treasurer, Finance

Christopher C. Cooper, General Manager of Legal, Realty and Court Services / City Solicitor

Allison Thornton, Associate Solicitor, Legal, Realty and Court Services

Zain Khan, Associate Solicitor, Legal, Realty and Court Services

Cameron Walsh, Manager of Solid Waste Resources, Environmental Services

Scott Grover, Inspector, Police Services

Leanne Warren, Project Specialist, Accessibility, Facilities and Energy Management

Tony Sabatini, Chief, Fire Prevention, Fire Services

Downtown Guelph Business Association

Accessibility Advisory Committee

Tourism Advisory Committee

Attachments

Attachment-1 2022 Seasonal Patio Program Engagement Survey Report

Attachment-2 Updated Seasonal Patio Program Fee Guide

Attachment-3 Permanent Seasonal Patio Program PowerPoint Presentation

Departmental Approval

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