



**City of Kingston**  
**Report to Environment, Infrastructure & Transportation Policies Committee**  
**Report Number EITP-24-006**

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**To:** Chair and Members of the Environment, Infrastructure & Transportation Policies Committee

**From:** Brad Joyce, Commissioner, Infrastructure, Transportation & Emergency Services

**Resource Staff:** Ian Semple, Director, Transportation & Transit

**Date of Meeting:** February 13, 2024

**Subject:** Street Patio Program Update

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**Council Strategic Plan Alignment:**

Theme: 5. Drive Inclusive Economic Growth

Goal: 5.8 Ensure the downtown remains vibrant.

**Executive Summary:**

Outdoor dining plays an integral role in animating the main streets of Kingston and supports restaurants with increased seating capacity and additional employment opportunities. Patios in the public realm generate foot traffic and contribute significantly to the pedestrian experience for both residents and visitors, aligning with the vision and priorities of downtown pedestrianization.

In March 2023, Council adopted the Street Patio Standards and Application Guide, which involved a comprehensive review and overhaul of the City's long-standing street patio program. The City worked alongside the Downtown Kingston Business Improvement Area (DKBIA), Tourism Kingston, and Kingston Accommodation Partners to develop the new standards, introducing four patio configuration options, formalizing the standards for temporary parking space conversion, simplifying options for public seating, and including detailed technical and design standards. The phasing-in plan allowed existing operators to comply by 2024.

Since the adoption of the Street Patio Standards and Application Guide in 2023, the City has conducted outreach to patio operators in anticipation of the new standards coming into effect in

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2024. Concerns raised by operators in the lead-up to implementation prompted a review and, as a result, several changes are proposed, aiming to clarify and amend the Street Patio Standards. These amendments are recommended to address concerns related to aisles, patio entrances, fencing, plant materials, and temporary structures. Feedback from a DKBIA review committee and educational site visits conducted by staff helped to inform these changes. Temporary relief from specific provisions within the Street Patio Standards is also recommended for existing non-compliant patios under active licence agreements. These proposed amendments are detailed in Exhibit A – Updated Street Patio Standards and Application Guide, and Exhibit B – Proposed Temporary Exemptions – Non-Compliant Patios, respectively.

As part of the 2023 patio season, a pilot program using modular platforms for pop-up patios in on-street parking spaces was initiated by the City, aiming to test accessibility, durability, and flexibility. Approximately 23 platform sections were procured and leased to the City on a one-year term to pilot their use within on-street parking spaces. Capital funds to pilot the use of platforms for pop-up patios for the 2023 season were provided using the remaining funds previously allocated to the patio standards review.

The use of modular platforms improved the accessibility and aesthetics of the pop-up patio program significantly and provided an additional option for restaurants looking to expand their outdoor dining space, particularly adjacent to sidewalk areas that may otherwise be constrained. Businesses and the DKBIA responded positively, and concerns were generally minimal compared to the previous practice of using ramps.

It is recommended that the City continue to offer the option of the installation of a modular patio platform for the 2024 patio season for interested patio operators. However, capital funds are not available for the City to cover the expenses related to leasing the platforms for an additional year. It is recommended that DKBIA coordinate directly with businesses and the platform vendor used in 2023 to determine interest, preferred locations, and manage the collection of funds, and for the City to review locations and coordinate the details of the installation with the vendor. Aligned with feedback received from patio operators seeking the option to design and construct customized platforms, operators will alternatively be permitted to submit an application to construct a reusable platform, including a drawing stamped and signed by a professionally licensed designer (i.e. Professional Engineer or Registered Architect), for review by the City.

**Recommendation:**

**That** the Environment, Infrastructure and Transportation Policies Committee recommends to Council on February 20, 2024:

**That** Council approve the updated Street Patio Program as outlined in Report Number EITP-24-006, and as per Exhibit A to Report Number EITP-24-006, “Street Patio Standards and Application Guide”; and

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**That** Council approve temporary exemptions to the approved Street Patio Standards, in the form attached as Exhibit B to Report Number EITP-24-006, “Temporary Exemptions – Non-Compliant Patios”, for existing non-conforming street patios that were established prior to the City’s COVID-19 temporary patio program and that are or were authorized by a valid licence agreement with the City.

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**Authorizing Signatures:**

ORIGINAL SIGNED BY COMMISSIONER

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**Brad Joyce, Commissioner,  
Infrastructure, Transportation &  
Emergency Services**

**p.p.**

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER

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**Lanie Hurdle, Chief  
Administrative Officer**

**Consultation with the following Members of the Corporate Management Team:**

Paige Agnew, Commissioner, Growth & Development Services	<input checked="" type="checkbox"/>
Jennifer Campbell, Commissioner, Community Services	Not required
Neil Carbone, Commissioner, Corporate Services	Not required
David Fell, President & CEO, Utilities Kingston	Not required
Peter Huigenbos, Commissioner, Major Projects & Strategic Initiatives	Not required
Desirée Kennedy, Chief Financial Officer & City Treasurer	Not required

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### Options/Discussion:

In March 2023, Council adopted the recommendations presented in [Report Number 23-080](#) – Patio Program Update: Standards, Application Process and Fee Review. This included the repeal of the Sidewalk By-law and the adoption of the [Street Patio Standards and Application Guide](#) (referred to as “the Standards”) in its place, which sets out new standards for patios located within the public streetscape, including on the sidewalk and within parking laybys.

As part of Report Number 23-080, staff recommended piloting the use of modular platforms for pop-up patio locations within on-street parking spaces for the 2023 patio season to test the potential improvements around accessibility, durability, and flexibility of use, and indicated that a report would be presented back to Council to summarize the results. This report provides an overview of the pilot program and outlines recommendations going forward.

Since the Standards were adopted by Council in 2023, the City has been working with existing patio operators to identify steps that they will need to take to comply with the standards through future modifications to their existing patios. Through this process, the City has received several questions and concerns from patio operators regarding elements of the standards that were introduced or carried forward from the previous Sidewalk By-law.

To address these concerns, staff are bringing forward proposed changes to amend and clarify the Standards, where applicable. Staff are also recommending an approach of providing temporary relief from specific provisions of the Street Patio Standards for existing patio operators under existing licence agreements, where appropriate. This approach allows patio operators to maintain their existing, previously approved patio configuration, while ensuring that the patios are brought into compliance with the current Street Patio Standards at the next available opportunity, such as the reconstruction of their patio or a change in business ownership. The amendments to the Standards are outlined in this report and presented as a set of updated standards in Exhibit A – Updated Street Patio Standards and Application Guide. The recommended temporary exemptions for existing non-compliant patios that were established prior to the COVID-19 temporary patio program and that are or were licensed through a licence agreement with the City are presented in Exhibit B – Proposed Temporary Exemptions – Non-Compliant Patios.

### Background

The City has a long-running program that permits businesses to operate seasonal patios within the public streetscape. Until recently, this program was limited to patios on the sidewalk and was regulated by way of City of Kingston By-Law Number 87-136, A By-Law to Authorize the Adoption of Regulations Established for the Purpose of Dealing with Applications for the Extended Use of Sidewalks (the "Sidewalk By-law"), which had not been substantially or comprehensively reviewed since the early 1990s.

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To provide additional options for businesses during the pandemic, several new temporary patio configurations were proposed in addition to the standard sidewalk configuration, including patios that utilized on-street parking spaces. Several provisions in the Sidewalk By-law were waived to facilitate rapid deployment of street patios. These additional options were adopted on a temporary basis and reviewed each year to adapt to business needs and incorporate lessons learned from the prior year. Leading into the 2022 patio season, Council adopted a set of more detailed interim guidelines for temporary patios, providing additional clarity for outdoor dining options within the public right-of-way.

At the end of the 2022 patio season, staff began a review of the program more broadly, which included the existing Sidewalk By-law that was in place and the interim guidelines that had been developed. The intent was to develop updated comprehensive standards for the street patio program as a whole and integrate the expanded on-street patio options introduced during the pandemic. This work was directed by the Council-adopted recommendations of the Downtown Community Focus Group, which was established to develop short and long-term improvement initiatives in the downtown area.

To inform the development of the new standards, in collaboration with the Downtown Kingston Business Improvement Area (DKBIA), Tourism Kingston (TK), and Kingston Accommodation Partners (KAP), the City conducted a survey with local businesses about the 2022 patio season. City staff conducted over 150 door-to-door visits with downtown businesses to encourage participation and answer questions related to street patios. Fifty-six businesses participated in the survey. Along with cafés, bars, and restaurants, responses were also received from adjacent businesses including clothing retailers, salons, jewellers, pet stores, furniture stores, and hotels.

This feedback formed the basis for the priorities and direction of the development of the Street Patio Standards, along with comments shared as part of ongoing meetings with the DKBIA and TK throughout its development. A best practice review of municipalities across Canada further informed the development of the Standards, along with retaining a team of external professional planners, engineers, and urban designers to support the development of new standards with consideration of the Kingston context. This work included a review of application processes, patio season dates, types of patio configurations, accessibility, legislative requirements, road and fire safety, design standards, operation and maintenance requirements, and patio fees.

The new standards, adopted by City Council in March 2023, represented an overhaul of the previous Sidewalk By-law that was in place and reflected the City's expectations for the patio program going forward. The updated standards included the following changes:

- Four patio configuration options that maximize the opportunities for patio operators to use the space adjacent to their business along a sidewalk or in a parking layby.
- Formalized standards that allow temporary parking space conversion to pop-up patios without reconstruction or permanent changes to the city's street or sidewalk areas.
- Simplified options for businesses seeking to add public seating along their frontage.

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- New winter patio options using temporary materials (tables/chairs), either event-based or ongoing, as well as extended patio seasons for sidewalk patios.
- Detailed technical standards for the patio structure and layout, including new requirements to ensure accessibility around the patios is maintained.
- Design standards on fencing, tables and chairs, menus and signage, host stands, plantings, lighting, and umbrellas that ensure the form, function, and accessibility around and within the patios are met.
- New minimum operating requirements for patios using on-street parking that ensure the space is utilized, recognizing the balance of uses in the curbside area (e.g. patios, pedestrians, and safe and efficient pick-up and drop-off areas for people and goods).
- Enhanced standards to ensure that patios are well maintained throughout the patio season.

The new patio standards were intended to be phased in over a two-season period, with existing patio operators, including those that operated under a temporary permit in 2022, permitted to operate in their currently approved configuration. Staff were to work with existing operators to transition to the new program standards, including entering into new patio licence agreements, for the 2024 patio season. New or modified patio applications were subject to the new standards as part of the 2023 season.

The review also considered the patio fee structure that was in place and proposed a simplified fee structure consisting of an application fee coupled with annual fees based on the patio footprint that scales with its size. Zone-based fees within the downtown area and separate parking displacement fees were removed, resulting in the harmonization of fees to one standard rate based on the footprint of the patio. The new fee structure was intended to introduce a more consistent approach in the way that fees are charged across the various patio configurations and create a lower barrier to entry for smaller patio footprints. The majority of new fees were proposed to take effect in 2024 and were developed to maintain the existing revenue, provided the same number of patios continue operation in 2024. The updated fee structure was endorsed by City Council as part of [Report Number 23-080](#) and adopted as part of [Report Number 24-005 – 2024 Annual Amendment to Fees and Charges – City of Kingston By-Law Number 2005-10](#) to take effect for the upcoming 2024 patio season.

### 2023 Patio Season

Fifty-five patios operated as part of the 2023 patio season. The following is a breakdown of the types of patios that operated:

- 28 sidewalk patios with active licence agreements with the City, including one new patio location and one reconstructed patio. Three of these patios were permitted to temporarily extend their patio space on the sidewalk.
- 14 sidewalk patios that were issued a seasonal permit but have not gone through a formal application process or have recently changed ownership.

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- 11 pop-up (on-street parking space) patios utilizing modular patio platforms that were granted temporary permits.
- 2 café-style patios comprised of tables and chairs on the sidewalk.

Approximately 23 platform sections were procured and leased to the City on a one-year term to pilot their use within on-street parking spaces. Capital funds to pilot the use of platforms for pop-up patios for the 2023 season were provided using the remaining funds previously allocated to the patio standards review. The City and DKBIA jointly communicated the opportunity to participate with patio operators, with 11 businesses responding by the deadline. These businesses were all able to be accommodated with the funds available, with platform sections being assigned on a request basis and in consultation with the DKBIA. The City provided approximately \$100,000 of in-kind funding by way of the lease of approximately 23 platform sections and the installation, repairs, removal, and traffic control required, excluding staff time. Patio operators were charged the established fee outlined in the Fees and Charges By-law as a cost recovery measure for the use of the parking space(s) and operation of the program. The platforms were installed over a three-night period in mid-May and removed in mid-September.

As a measure to balance the need for shared curb space, as outlined in the updated standards, businesses that were proposing to operate a patio within on-street parking spaces with elements taller than 1.2 metres positioned in front of an adjacent business, such as umbrellas, were required to obtain a letter of support from the adjacent business prior to approval by the City. Except for one particular instance, this approach largely mitigated business conflicts as it related to the use of on-street patio space when compared to previous years. It is recommended that this requirement be carried forward for future patio seasons.

### **Implementation of the Street Patio Standards**

In anticipation of the updated Street Patio Standards & Application Guide coming into effect for existing patio operators in 2024, staff organized an information session for patio operators, with the attendance of approximately 15 operators. Staff took the approach of focusing on the provisions related to accessibility, legislation, and safety, and indicated that other provisions may be considered on a case-by-case basis recognizing that many patios had been in place for a considerable period of time before the adoption of the Standards. With this considered, staff indicated that patios would be reviewed and, on a case-by-case basis, may be exempted and/or afforded additional time to comply with certain provisions of the Standards.

At this meeting and in subsequent communications, the City received general and specific concerns from patio operators, both directly and through the DKBIA, about multiple provisions within the recently adopted standards, including the following:

- Minimum aisle widths
- Minimum patio entrance widths
- Provisions relating to structures

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- Fencing requirements
- Sidewalk accessibility
- Patio materials
- Fire safety
- Minimum operating requirements
- Advertising restrictions

While some concerns were regarding new requirements that were introduced, a number of the concerns shared also pertained to regulations that had been carried forward from the previous Sidewalk By-law or were required by other by-laws or provincial legislation and reinforced as part of the new standards for further clarity. In the latter case, these provisions had been in place for several years prior to the adoption of the Standards and each patio operator was already previously obliged to adhere to them.

While DKBIA staff were involved as a stakeholder throughout the development of the Standards, there was a strong sentiment expressed by patio operators that they did not have an opportunity to provide feedback on the newly adopted standards. There were varying sentiments and suggestions shared by the operators, including a desire for the Standards to be overhauled and applied consistently irrespective of previous approval, for specific exemptions with consideration for their previously approved patio, or to be fully exempted from the Standards altogether.

As a next step, individual educational site visits were proposed by the City for staff and patio operators to discuss the Standards as they applied to each patio on a site-specific basis. The visits were intended to discuss the provisions in more detail as they relate to each specific patio, answer questions, review existing approvals, and identify any preliminary issues that may require future rectification. This was intended to benefit both the patio operators and the City in understanding the scope of changes to the patio set-ups that may or may not be required to be in compliance with the Standards. A total of 16 patios were reviewed as part of this voluntary process. High-level feedback was provided to the operators regarding aspects of their patio that may require future rectification and/or further review.

In addition to the educational site visits that were organized, the DKBIA organized informational interviews with 16 interested patio operators and shared the compiled feedback back with the City. The DKBIA subsequently formed a review committee to liaise with City staff and provide feedback on the proposed recommended updates to the Standards and temporary exemptions for existing patio operators under licence agreements with the City. Staff met with the committee to present an initial draft copy of the proposed updates and exemptions. Feedback shared at the meeting was taken into consideration and additional iterations of the recommendations were drafted and shared with the DKBIA in December 2023. At its January 2024 meeting, the DKBIA Board of Management adopted a motion to approve the updated draft Street Patio Standards and Application Guide, with an acknowledgment that stakeholders had been appropriately consulted.

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## Recommended Patio Standards Updates

Based on the feedback received, the educational site visits conducted, and informational interviews conducted by the DKBIA, several amendments to the Street Patio Standards & Application Guide are proposed. The proposed changes are highlighted below and presented as a set of updated standards in Exhibit A – Updated Street Patio Standards and Application Guide.

### Aisles

The current patio standards carry over a stipulation from the former Sidewalk By-law that mandates a requirement for a minimum 1.1-metre aisle at all times from the patio entrance to the building entrance and all tables within the patio area. The Standards stipulate that no patio furnishings or materials are permitted to interfere with the minimum aisle width, and that no additional tables or chairs can be placed in the patio area after the patio layout has been approved. The intent of this requirement was largely related to maintaining safe passage between the entrance of the building and the entrance to the patio.

Several concerns have been raised by patio operators about the interpretation of this requirement and whether it applies to all tables within the patio area. As patios have typically been approved for layouts that are based on occupancy requirements under the Ontario *Building Code* (OBC) and Ontario *Fire Code* (OFC), it is recommended that the Standards be clarified that these codes regulate the patio area rather than a stipulated aisle width within the Standards. However, it is recommended to maintain the requirement of a 1.1-metre aisle width between the patio entrance and the building entrance, which is important for accessibility and in the event of an emergency. Staff are recommending clarifying the stipulation for the 1.1-metre aisle width, in that it only applies specifically to the area between the building entrance and the patio entrance.

The Standards also currently include a requirement for the arrangement of tables and chairs in the patio area such that tables are accessible to patrons seated in a mobility device. The current provision has been interpreted to mean that there is a new requirement that all tables must be fully accessible at all times, which was not the intent of the provision. Rather, staff intended to require that, at any time, tables and chairs within the patio area must be able to be arranged to be accessible for patrons utilizing mobility devices, with consideration for knee and toe clearance, forward approach, turning radius, and transfer option. This is proposed to be clarified in the Standards.

### Temporary Structures

The Street Patio Standards currently do not allow any structure to be installed in the public right-of-way, including tents, domes, vestibules, and wooden frameworks under any circumstance. It is proposed that this provision be updated to provide an opportunity for review and/or permit issuance through the Building Services department as it relates to temporary structures. This

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includes roll-out canopies and awnings that attach to the building, which require review from Building Services, and are required to meet flame resistance under the OBC. Similarly, tents placed within the patio area, including those that are positioned within 3 metres of a building, require review by Building Services for OBC compliance, including consideration for flame resistance and placement. Other structures, such as those attached to platforms and/or the building, also require review by Building Services and may require a building permit.

### **Fencing Requirements**

As part of the former Sidewalk By-law, the City has previously requested a supplemental railing to be installed, projecting out from the patio fence for all patio fencing adjacent to the sidewalk. This provision was carried forward in the new standards, requiring a supplemental contrasting, cane-detectable railing installed on fencing adjacent to a pedestrian clearway. Planters could be used in combination with fencing to define the patio area, provided that the planters have a cane-detectible railing as described above.

In reviewing this approach and the patio guidelines of other cities in further detail, as well as consulting with the MAAC Active Transportation project team, provisions that speak to cane detection tend to make a general reference to materials (i.e. fence and/or planters) needing to be cane-detectible but do not necessarily require supplemental cane-detectable railings for materials that otherwise may already be considered cane-detectable. Additionally, staff have found that, in some cases, the existing cane-detectible fencing can further reduce the available clear width.

As such, staff are recommending an amendment to the Standards that stipulates that fencing adjacent to the pedestrian path of travel must have a fixed and continuous cane-detectable lower railing. Planters can continue to be used in combination with fencing to define the patio area, provided that the planters have a solid base that is cane-detectable and continuous with the fence line. A supplemental railing/edge/guard would still be required if there is not an existing lower fence railing that meets this requirement, or if there are footplates that are protruding beyond the fence line.

### **Plant Materials**

Many patio operators have existing plant materials that are incorporated or installed on fencing that is adjacent to the sidewalk. Staff recognizes the desire for plant materials and the aesthetic benefits they provide to the patios and downtown overall, while also recognizing the accessibility challenges they may present depending on their configuration and projection. Currently, the Street Patio Standards state that plant materials may be affixed to fencing if they do not interfere with the minimum pedestrian clearway (being 1.83 metres).

Additional clarity is being recommended as there are several instances currently where planter boxes are protruding significantly from the fence from patios adjacent to the sidewalk, whereby they may inadvertently encumber pedestrians with sight loss. According to the City's Facility

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Accessibility Design Standards, planter boxes or other objects above a cane-detectable area should protrude no more than 0.1 metres. It is understood that projections (such as planters) beyond this may not be detected by a person with sight loss using a white cane.

It is proposed that plant materials can be affixed to fencing, provided they do not protrude more than 100 millimetres horizontally from the cane-detectable railing and do not interfere with the minimum pedestrian clearway (1.83 metres). The required minimum clearway is measured from the furthest protruding point.

### **Additional Amendments**

In addition to the above, several additional minor amendments were included in the updated Standards, including:

- Updating the Standards to move from default restrictions with no recourse to default restrictions with opportunity for review, permit, and/or approvals as it relates to menus and signage attached to buildings, as well as surface coverings.
- Removing the requirements prohibiting third-party advertising on furnishings or materials within the patio area.
- Removing the design requirements for patio furnishings. The DKBIA will provide feedback to operators as needed.
- Removing the requirement for umbrellas to be constructed of flame-resistant materials with the understanding that specific requirements regarding the use of patio heaters in proximity to flammable materials remain in the Standards and that no cooking is permitted on the street patio under any circumstances.
- Adding guidelines for the use of string lights.
- Removing the requirement that limits patio operation between the hours of 8:00 AM and 11 PM, and instead defer to City of Kingston By-Law Number 2004-52 – A By-Law To Regulate Noise.

### **Temporary Exemptions – Non-Compliant Patios**

In addition to the proposed amendments to the Street Patio Standards & Application Guide, it is proposed that temporary relief from specific provisions for existing patio operators authorized under licence agreements with the City be provided, where appropriate. This approach allows patio operators to maintain their existing, previously approved patio configuration, while ensuring that the patios are brought into compliance with the current Standards at the next available opportunity, such as reconstruction of the patio or a change in ownership of the business. The proposed changes are outlined below and presented as a set of updated standards in Exhibit B – Temporary Exemptions – Non-Compliant Patios.

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### **Pedestrian Clearway Requirements**

As part of the new standards, the City maintained the required clearway width requirements that had been stipulated in the previous Sidewalk By-law of 1.83 metres in the downtown area, as it represents an increased width beyond the minimum 1.5 metres set out in the Integrated Accessibility Standards, recognizing the volume of pedestrians utilizing the downtown area and considering overall pedestrian experience. The Standards also state that if the pedestrian clearway is required to deviate around the patio, the corners of the patio must be at an angle that is in line with the adjacent curb.

In conducting detailed site reviews at the existing sidewalk patios, several existing sidewalk patios are not in compliance with the 1.83 metres clearway requirement. Staff are recommending maintaining the 1.83 metres clearway requirement in the Standards as drafted. However, recognizing that many patio operators will require a full replacement and/or reconstruction of their patio fencing, layout, and/or platform to comply with this standard, it is proposed that a temporary exemption be provided to patio operators that meet a minimum 1.5-metre clearway, until such time that the patio is reconstructed or ownership changes.

### **Aisles & Patio Entrances**

In addition to the 1.1-metre requirement for aisle widths, patio entrances are stipulated to be a minimum of 1.2-metres in width in the Standards. Staff are recommending maintaining this provision in the Standards, along with the aforementioned 1.1-metre aisle width requirement. However, it is noted that many existing patios do not meet the 1.2-metre width requirement, and in the case of a ramp to the patio being present, may also not meet the 1.1-metre minimum aisle width requirement as well.

Similar to the approach regarding clearway widths, staff are considering an exemption on a case-by-case basis that would allow a minimum 0.9-metre patio entrance width and a minimum 0.9-metre aisle width from the patio entrance to the building until such time that the patio is reconstructed or ownership changes. 0.9 metres, while not the preferred standard, aligns with the minimum ramp widths outlined in the Integrated Accessibility Standards and egress requirements stipulated under the OBC, and can be supported as an interim measure toward future compliance with the Standards.

### **Additional Exemptions**

In addition to the above, additional temporary exemptions include the following:

- Patios with existing elements that anchor or affix to the sidewalk will be permitted to continue to do so provided reasonable efforts are taken to cap the holes when the fencing is removed.
- Patios with an existing screen will be granted express permission to continue their use.

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- Patios will be assumed to be exempted from existing buffer requirements based on prior approval unless new utility or fire safety-related concerns arise from future reviews.

### Platform Program Recommendations

Since 2020, the City has funded and coordinated the annual placement and removal of equipment to convert the on-street parking spaces into spaces suitable for retail operations including the installation of safety barriers, planters, and ramps and the provision of pickup/delivery spaces to promote parking turnover in areas where the on-street parking had been reduced. Changes were introduced in 2023 to limit the impact on adjacent businesses to ensure that parking space patios that were requested were adequately utilized and did not impact parking to an unnecessary degree. The approach also limited the seasonal period that pop-up patios could be installed to a four-month period, which was based on feedback received from downtown businesses through consultation on the new policy that was being developed.

Based on the results of the implementation of the pop-up patio program in 2023, the use of modular platforms represented a significant improvement in the accessibility of the patios. The platforms deployed are at grade with the sidewalk and are effectively the only means through which accessibility can be fully achieved for this patio configuration. In many cases, the past practice of using ramps was constrained by the width of laybys such that it was not possible to meet the City's accessibility standards.

The use of platforms had the benefit of serving as lateral separation from the travel lane, and in some cases, reduced the need for construction-grade materials. It is important to note that despite the presence of safety equipment, patios and pedestrian bypasses positioned within the on-street layby are not without some risks that may differ from indoor dining or retail space. However, staff did not note any specific safety concerns with the platforms and were not aware of any vehicle incursions during the 2023 season.

Additionally, the platforms had the benefit of addressing concerns received about the design and aesthetic qualities of previous iterations of pop-up patios utilizing construction-grade materials as expressed by patio operators, the DKBIA, and the general public in previous years. The option of platforms also provides a viable opportunity for businesses to utilize existing space near their property for the patio season without requiring permanent alterations that eliminate on-street parking year-round.

Prior to 2023, there was an expected level of hesitancy from restaurant operators to invest in reusable temporary platforms without the promise of permanency of the program. With the pop-up patio program now recognized as a permanent program, staff anticipate that restaurants or cafés that may be adjacent to sidewalks that are constrained in width, or for those that are looking for additional outdoor dining space, may begin to invest in this option. Based on the benefits that platforms provide and the absence of ramps during the 2023 patio season, the City will continue to strongly recommend the use of at-grade platforms for patios and pedestrian bypasses for patios within on-street laybys.

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While the feedback on the modular patio platforms from patio operators was generally positive, they expressed a desire to have more control of the design and operation of the platforms. The City will continue to offer the option of the installation of a modular patio platform for the 2024 patio season for interested patio operators, however, funds are not available for the City to cover the expenses related to leasing the platforms for an additional year. It is recommended that DKBIA coordinate directly with the platform vendor utilized in 2023 and with businesses to determine interest, preferred locations, and manage the collection of funds, and for the City to review locations and coordinate the details of the installation with the current vendor that provided patio platforms in 2023, Streets Patios Inc. Alternatively, patio operators will be permitted to submit an application to construct a reusable platform, including a drawing stamped and signed by a professionally licensed designer (i.e. Professional Engineer or Registered Architect), for review by the City.

### **Next Steps and Timelines**

Pending the adoption of the recommendations in this report, staff will move forward with the termination of all existing patio licences and permits to allow for new agreements and permits to be developed that reflect and reference the updated Street Patio Standards and Application Guide, as previously directed by Council. The City will work with existing patio operators to update their patio configuration and any additional information where required and will incorporate the temporary exemptions captured in Exhibit B into new licence agreements for patios with existing licence agreements. Sidewalk patios for which an agreement is not currently on file will be required to submit a new application for the 2025 patio season.

To better support patio operators in their payment of patio fees, an option for payment by installment will be reintroduced for 2024. Postdated cheques will be required to be submitted no later than April 30th, with the payment dates being May 1st, June 1st, and July 1st. This approach will be reassessed in 2025.

The following represents the timeline and next steps for the program for 2024:

- By February 23 – Communication issued by the City to the existing sidewalk patio operators regarding the termination of their existing licence agreement and sharing an updated copy of the licence agreement reflecting the new standards and proposed temporary exemptions for their reference ahead of this year’s patio season.
- By February 23 – Communication issued by the City to existing sidewalk patio operators who previously received temporary permits, indicating that a permit will be reissued for 2024 under the current configuration. Operators will need to submit a new application for review ahead of 2025 that meets the updated Street Patio Standards & Application Guide and will enter into a licence agreement with the City.
- By February 23 – Communication issued by the DKBIA and the City regarding the available options for platforms for pop-up patios and outlining the option to apply for the design and construction of a reusable platform by the operator.

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- April 1 – Sidewalk patio season begins
- May 15 – Pop-up patio season begins
- September 15 – Pop-up patio season ends
- November 30 – Sidewalk patio season ends
- Following November 30 – Applications open for event-based winter patio options. Applications remain open year-round for café-style patios (i.e. tables and chairs, non-serving).

### **Indigenization, Inclusion, Diversity, Equity & Accessibility (IIDEA) Considerations**

The updated Street Patio Standards include several updated accessibility provisions aligned with City standards that meet or exceed the Province’s Integrated Accessibility Standards. Among other accessibility provisions, the Standards establish the minimum clear width requirements along the sidewalk in the area adjacent to the patio. The enhancement of accessibility through the use of platform areas will be introduced as a requirement going forward. While temporary exemptions are proposed for long-standing sidewalk patios under current licence agreements with the City, the intent is to encourage improved accessibility compliance at the soonest opportunity, either through a proposed patio reconstruction by the patio operator or through a change in ownership of the business.

Staff consulted the MAAC Active Transportation project team on the planned updates, including the temporary exemptions contemplated. While the project team expressed some reservations about providing temporary exemptions for existing patios, there was general agreement with each proposed approach with the understanding that the exemptions are temporary and are intended to lead to future compliance. The MAAC project team was also supportive of the proposed changes to the Standards. Additional feedback was provided regarding accessible tables, warning strips along the path of travel, colour contrasting, and planters that were incorporated into the recommendations and/or was noted by staff for future consideration.

As part of the City’s current accessible parking program, any accessible parking spaces that are temporarily unavailable due to road closures or expanded patios will be relocated to a nearby accessible location.

### **Existing Policy/By-Law**

[Street Patio Standards and Application Guide](#)

### **Financial Considerations**

The City collects patio fees to cover the cost of administering and operating the program, lost parking revenues, and to recognize the use of municipal property by a private business to generate revenue. Revenue from the fees associated with the patio program for 2024 is estimated to be similar to previous years assuming a similar number of patios, including pop-up patios in parking areas, operate through the summer season.

**February 13, 2024**

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The new fees, the majority of which are proposed to take effect in 2024, were developed to maintain the existing revenue provided the same number of patios continue operation in 2024. The 2024 operating budget submission includes an updated estimate of patio revenue and costs based on the 2023 patio season.

Sufficient capital funds are not available for the City to deploy platforms for pop-up patios for the 2024 season. Any costs associated with the use of the modular platforms provided by the City/DKBIA require reimbursement for the costs associated with leasing, installing, maintaining, and removing the platforms.

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Derek Ochej, Deputy City Clerk

Adam McDonald, Operations Manager, Public Works

John King, Supervisor, Public Works

**Exhibits Attached:**

Exhibit A – Updated Street Patio Standards and Application Guide

Exhibit B – Temporary Exemptions – Non-Compliant Patios

# Street Patio Standards and Application Guide

For patios and other seating arrangements located within the public realm.



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# 1. Introduction

## 1.1 Overview

The City of Kingston's Street Patio Program provides an opportunity for businesses to operate a serving or non-serving patio on municipal property, including on public sidewalks and within on-street parking spaces. Whether you operate a restaurant, café, or bar, or are just looking to add public seating near your business, the Street Patio Program offers several benefits, including:

- More options for outdoor dining
- Greater seating capacity and employment opportunities
- More vibrant and attractive streets
- Increased tourism and economic growth
- Greater foot traffic near businesses
- More active, pedestrian-friendly spaces

Together, these spaces play an important role in creating a unique and enjoyable experience for residents and visitors alike.

## 1.2 About This Guide

This guide is intended to clearly outline the processes, minimum standards, and operational requirements for patios in the public realm. It does not apply to patios located on private property, such as rooftop patios or those located behind an establishment.

This guide has been developed with input from local businesses and is intended to be the primary resource for those interested in operating a street patio. The guide includes information on the following:

- Different types of street patios
- Patio season dates
- Application process
- Technical and design standards
- Operational and maintenance requirements
- Applicable fees

The location of each business and the surrounding streetscape is unique. The City will work with applicants to communicate and inform of any changes that may be required; however, approval is not guaranteed. There are some instances where a street patio may not be feasible due to space or other site constraints. This guide is intended to be your starting point and will help determine whether a street patio may be feasible for your business. The City reserves the right to deny an application if it is determined that the patio does not meet the standards established in this guide.

## 1.3 Goals

The Street Patio Program has four main goals:

### **Accessibility**

Ensure street patios can be enjoyed by all.

### **Safety**

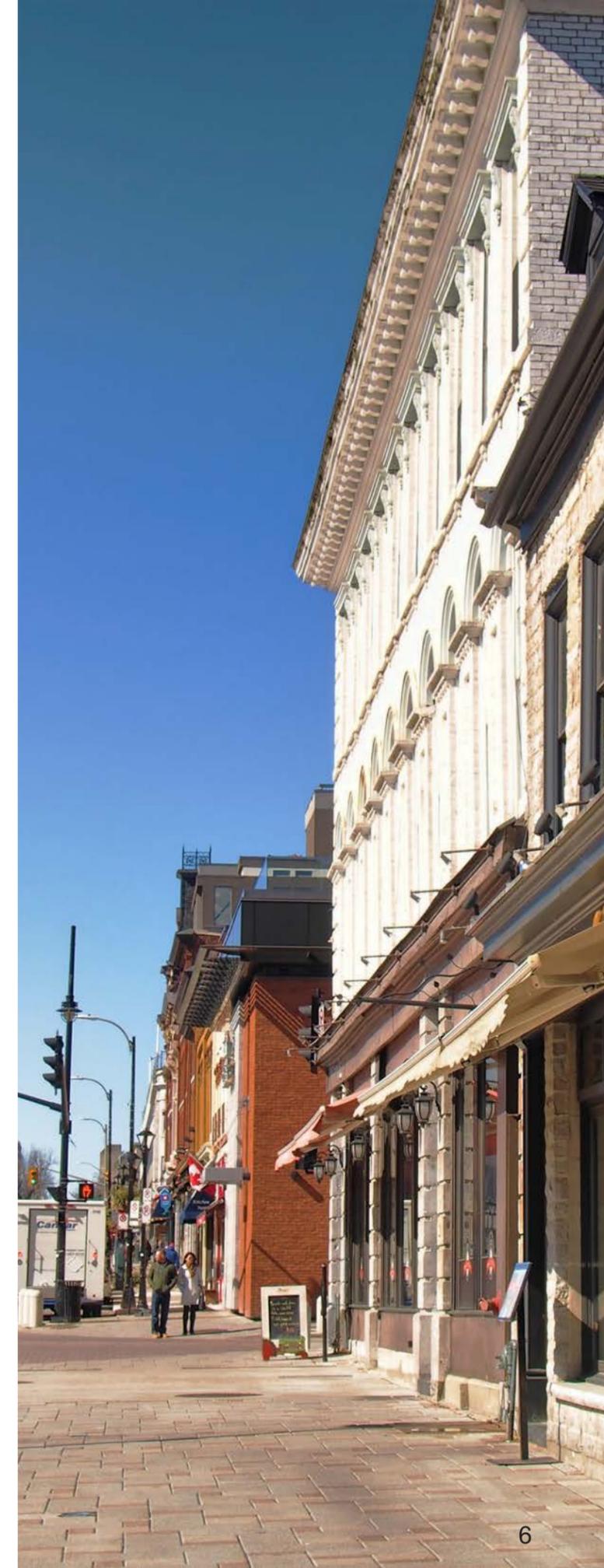
Ensure patrons and pedestrians feel safe in and around street patios.

### **Design**

Ensure street patios are visually appealing and enhance the public realm.

### **Culture**

Establish a vibrant patio culture that is welcoming to residents and visitors.



## 2. How to Join the Program

### 2.1 Application Steps

Looking to renew a street patio that was previously approved? If your layout, design, and materials haven't changed from the previous year, you may not need to complete a new application. Reach out to [transportation@cityofkingston.ca](mailto:transportation@cityofkingston.ca) to let us know you would like to renew your patio under the previously approved application.



#### Step 1: Review the Document

Review all of the contents in this document, including:

- Permitted street patio configurations and operating periods
- Technical standards
- Design standards
- Operation and maintenance requirements
- Program fees



#### Step 2: Complete the Application Form

Fill out the Street Patio Program Application Form and select the patio configuration(s) best suited to the location of your business, keeping in mind the flow of pedestrians and any existing streetscape elements in the vicinity of the proposed patio.



#### Step 3: Take Photos

Take photos of the area intended to be occupied by the patio and include adjacent properties for context. Ensure that the photos capture the entrances of buildings and any streetscape elements on the sidewalk.



#### Step 4: Prepare Your Plan

Prepare an overhead plan of the proposed patio configuration using Google Maps or other tools and clearly show:

- Entrances to the patio and surrounding buildings
- Adjacent property lines
- The dimensions of the patio area, including the location of any fencing (corners should be angled to minimize the impact on pedestrian flow where necessary)
- The clear path of travel for pedestrians (minimum 1.83 metres and no 90-degree turns)
- The location and spacing of all tables and chairs
- The location of other patio furnishings, such as host stands or planters
- The location of nearby streetscape elements (trees, planters, light standards, sign posts, utility poles, parking meters, fire hydrants, utility covers and hydro vaults, maintenance holes, catch basins, utility valves, bicycle parking racks, benches, gas/electric/phone/internet equipment, and waste receptacles)
- The location of nearby commercial loading zones, accessible parking, and transit stops

Your plan must clearly show the total number of tables and chairs that you intend to include within your patio. Hand-drawn overhead plans will not be accepted.

If you are interested in operating a sidewalk patio during the shoulder season (October 1 to November 30), you must also include a second overhead plan for your shoulder

season patio layout that clearly shows the location of any heating devices that will be used during the colder weather.

A patio agreement authorized by the City is only valid if the setup of your street patio is representative of the approved layout(s). Modifying the layout of a patio after it is approved requires an amendment to the approved plan and may be subject to additional fees.



#### Step 5: Draft Your Design

Collect photos of the design features for the proposed patio, including fencing, tables, chairs, umbrellas, host stands, lighting, planters, heaters, and other decorative elements. You may take photos of these design features or use pictures that are available online. It is recommended that the photos are included as part of a single document.

If your business is located in the Downtown Area and you would like assistance designing your street patio, you can reach out directly to the Downtown Kingston Business Improvement Area (BIA) for recommendations on patio furnishings and materials.



#### Step 6: Certify Your Platform (if applicable)

If you are proposing to construct a platform as part of your patio set-up, you must provide drawings that are designed, signed and stamped by a professionally licensed designer (i.e. Professional Engineer or Registered Architect) to demonstrate the platform is structurally sound and can accommodate the intended load.



### Step 7: Obtain Letters of Support (if applicable)

If the location of the proposed street patio is within the Downtown Kingston BIA, share your completed patio plan including pictures of the proposed design features with the Downtown Kingston BIA association by email ([member@downtownkingston.ca](mailto:member@downtownkingston.ca)) to receive feedback. A letter of support from the Downtown Kingston BIA association is required as part of your completed application if the proposed street patio is within this area.

Patios located on the **sidewalk** that extend in front of an adjacent business must also receive a Letter of Support from the adjacent establishment prior to approval by the City.

Patios located within **on-street parking spaces** positioned in front of an adjacent business that have patio elements that are greater than 1.2 metres in height (such as umbrellas) must also receive a Letter of Support from the adjacent business prior to approval by the City.



### Step 8: Submit Your Complete Application

Submit your completed application to [transportation@cityofkingston.ca](mailto:transportation@cityofkingston.ca) in advance of any applicable deadlines, including:

- Street Patio Program Application Form
- Photos of the proposed patio location and surrounding streetscape
- Overhead patio plan(s)
- Pictures of the patio furnishings and materials
- Stamped platform drawings (if applicable)
- Letters of Support from the Downtown Kingston BIA or adjacent businesses (if applicable)



### Step 9: Licence Your Patio (if applicable)

Liquor sales licencees and manufacturers that hold a by-the-glass endorsement who want to operate a street patio must notify the Alcohol and Gaming Commission of Ontario (AGCO) by making a submission on the iAGCO portal before selling or serving liquor on the street patio.

## 2.2 Review Process

Various City departments and partners may be involved in reviewing your application and providing feedback for any revisions required before approval. To determine approval, City staff will evaluate your application based on:

- Compliance with the standards outlined in this guide
- Suitability of the location and any impacts on existing services
- Accessibility of the patio and surrounding area
- Safety of the patio set-up, location, and materials
- Design quality and functionality of the patio layout

The applicable fees for operating the street patio will be determined based on the type and size of the patio. If the proposed patio is approved, you will need to pay the applicable fees and submit Proof of Insurance before receiving a permit and/or legal agreement needed to operate your street patio. Once the street patio is constructed during the patio season, it may be subject to inspections by Transportation Services staff to ensure compliance.

The City reserves the right to reject a street patio application if the proposal does not meet the minimum standards outlined in this guide or if there are specific issues with the proposed site that would preclude the installation of a street patio.

# 3. Street Patio Configurations

## 3.1 Overview

The Street Patio Program offers four patio configurations depending on your needs and context of the street. Selecting the appropriate configuration for your location is key to ensuring your patio can meet the minimum standards, operate safely, and maintain an accessible, clear path of travel for pedestrians. When choosing your configuration, consider the space in front of and adjacent to your business, the surrounding streetscape elements, and the flow of pedestrians.

Street patios fit into two broad categories:

- A. **Sidewalk patios** that are contained entirely on the sidewalk with no impact to on-street parking.
- B. **Pop-up patios** that require the use of on-street parking, or a combined use of on-street parking and the sidewalk.

There are two potential configurations for each category (four in total), which are summarized in the following tables and described in detail in the following sections.

1. Café-Style Patio (sidewalk patio)
2. Frontage Patio (sidewalk patio)
3. Parking Space Patio (pop-up patio)
4. Patio with Pedestrian Bypass (pop-up patio)

Note: the following graphical depictions are conceptual renderings and not intended to be to scale. Additional materials (e.g., concrete barriers) may be required for pop-up patios to separate the patio area from adjacent lanes of travel or adjacent parking spaces, and will be determined by the City based on an assessment of the adjacent roadway. Please refer to [Section 5](#) and [Section 6](#) for the technical and design standards associated with each layout.



- Legend**
- Sidewalk Patio
  - Pop-Up Patio

## Sidewalk Patio Overview

Patio Configuration	1. Café-Style Patio	2. Frontage Patio
Location	Against building or along curb	Against building
Minimum site requirements	> 3 metres of sidewalk width	> 4 metres of sidewalk width
Operating Period	January 1 to December 31 (year-round)	April 1 to September 30 (standard season) October 1 to November 30 (optional shoulder season extension)
Fees	Based on number of tables	Based on patio area
Standard Length	Business frontage	Business frontage
Permission Needed to Extend Beyond Frontage	✓	✓
Serving Patio	X	✓
Ramp or Platform Required	X	X
Fencing Required	X	✓
Nightly Furniture Removal Required	✓	X

## Pop-Up Patio Overview

Patio Configuration	3. Parking Space Patio	4. Patio with Pedestrian Bypass
Location	On-street parking	Against building and on-street parking
Minimum site requirements	On-street parking nearby	> 3 metres of sidewalk width and on-street parking nearby
Operating Period	May 15 to September 15 (pop-up season)	May 15 to September 15 (pop-up season)
Fees	Based on patio area	Based on patio area
Standard Length	Minimum of one parking space	Business frontage
Permission Needed to Extend Beyond Frontage	X	✓
Serving Patio	✓	✓
Ramp or Platform R	✓	✓
Fencing Required	✓	✓
Nightly Furniture Rval Required	X	X

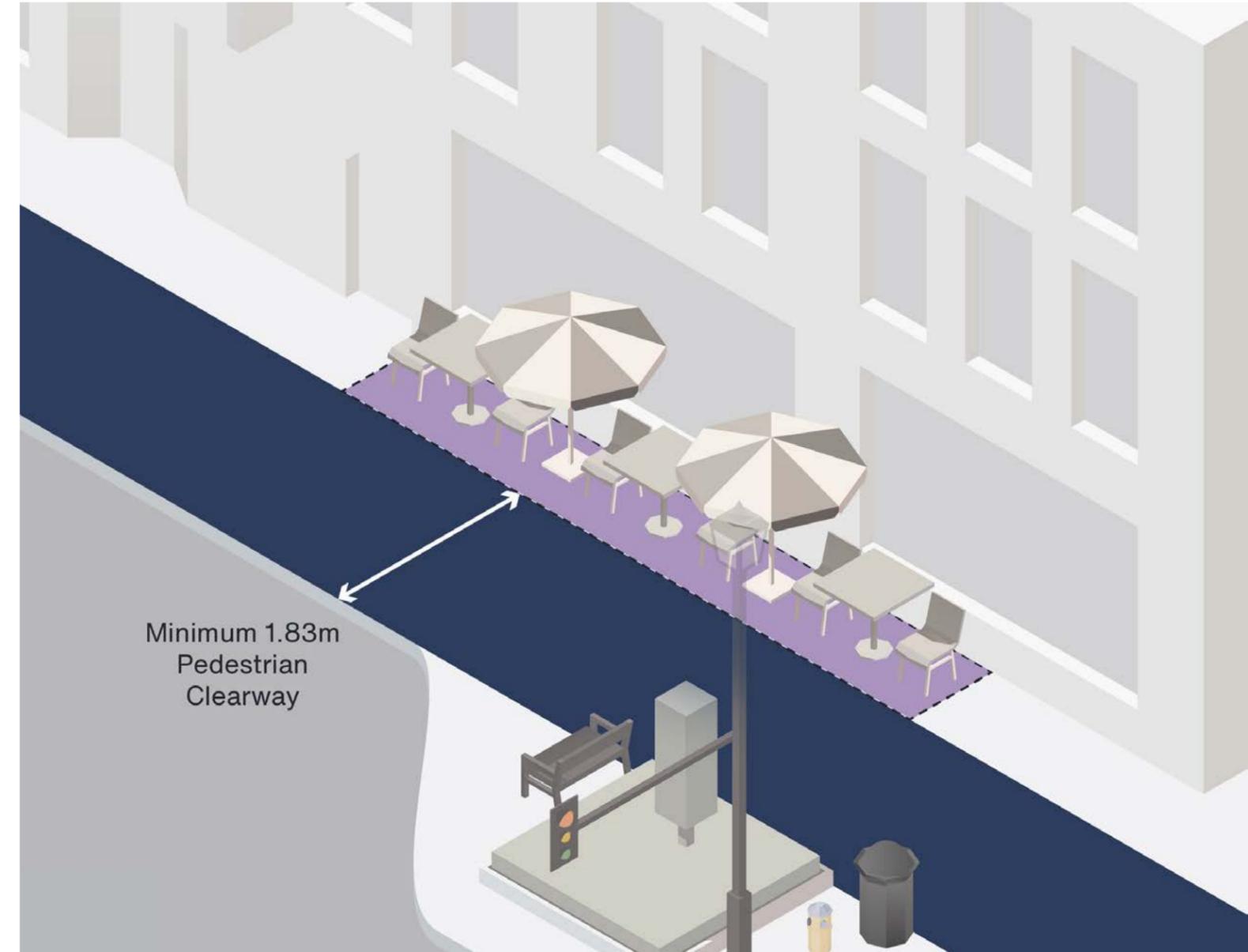
## 3.2 Sidewalk Patios

### 3.2.1 Café-Style Patio

A café-style patio is a simple, unenclosed patio set-up for non-serving uses consisting only of tables, chairs, and umbrellas. It is located on the sidewalk along the frontage of the building or the curb. You are responsible for maintaining the patio area and adjacent sidewalk.

-  **Location:** On the sidewalk along the building frontage or curb.
-  **Suitable Application:** Where the width of the sidewalk is sufficient to accommodate a small amount of seating.
-  **Potential Operators:** Cafés and takeaway food establishments interested in operating a non-serving patio.
-  **Operating Period:** Available for use year-round (see [Section 4](#) for more information on winter operational requirements).

-  **Size & Alignment:**
  - Limited to the width of the frontage of your business, unless permission to extend the patio area is received from the adjacent establishment.
  - Must maintain a minimum 1.83-metre pedestrian clearway, including offsets from streetscape elements such as fire hydrants and waste receptacles.
  - When located along the curb, a 0.5-metre buffer from the inside edge of the curb must be maintained.
-  **Perimeter Treatment:** No fencing is required. However, patio furniture must remain within the approved area.
-  **Fees:** Fees are calculated based on the number of tables to be set up in the patio area.
-  **Additional Considerations:** All tables, chairs, and umbrellas must be removed from the sidewalk at the end of each business day and may only be placed on the sidewalk at the start of your business hours.



#### Legend

-  Patio
-  Pedestrian Clearway

### 3.2.2 Frontage Patio

Located on the sidewalk along the frontage of the building, a frontage patio is an enclosed patio suitable for serving. It consists of fencing, tables, chairs, umbrellas, host stands, plants, lights, and/or other patio furnishings. You are responsible for maintaining the patio area and adjacent sidewalk.

- Location:** On the sidewalk along the building frontage.
- Suitable Application:** Where the width of the sidewalk is sufficient to accommodate the enclosed patio area along the building frontage without conflicting with streetscape elements or the pedestrian clearway.
- Potential Operators:** Restaurants, pubs, and bars interested in operating a street patio for up to eight months per year.
- Operating Period:**
  - Standard period of six months from April 1 to September 30.
  - Optional shoulder season extension for two months from October 1 to November 30, subject to meeting additional requirements.



#### Size & Alignment:

- Limited to the width of the frontage of your business, unless permission to extend the patio area is received from the adjacent establishment.
- Must maintain a minimum 1.83-metre pedestrian clearway, including offsets from streetscape elements such as fire hydrants and waste receptacles.
- Patio perimeter must include angled patio corners where appropriate to limit the need for pedestrians to deviate from their path of travel.
- Must retain unobstructed access to the building and adjacent establishments.
- Align the patio entrance with the main entrance of your business where possible.



**Perimeter Treatment:** Enclosed by a stable, secure fence that delineates the patio area from the streetscape.

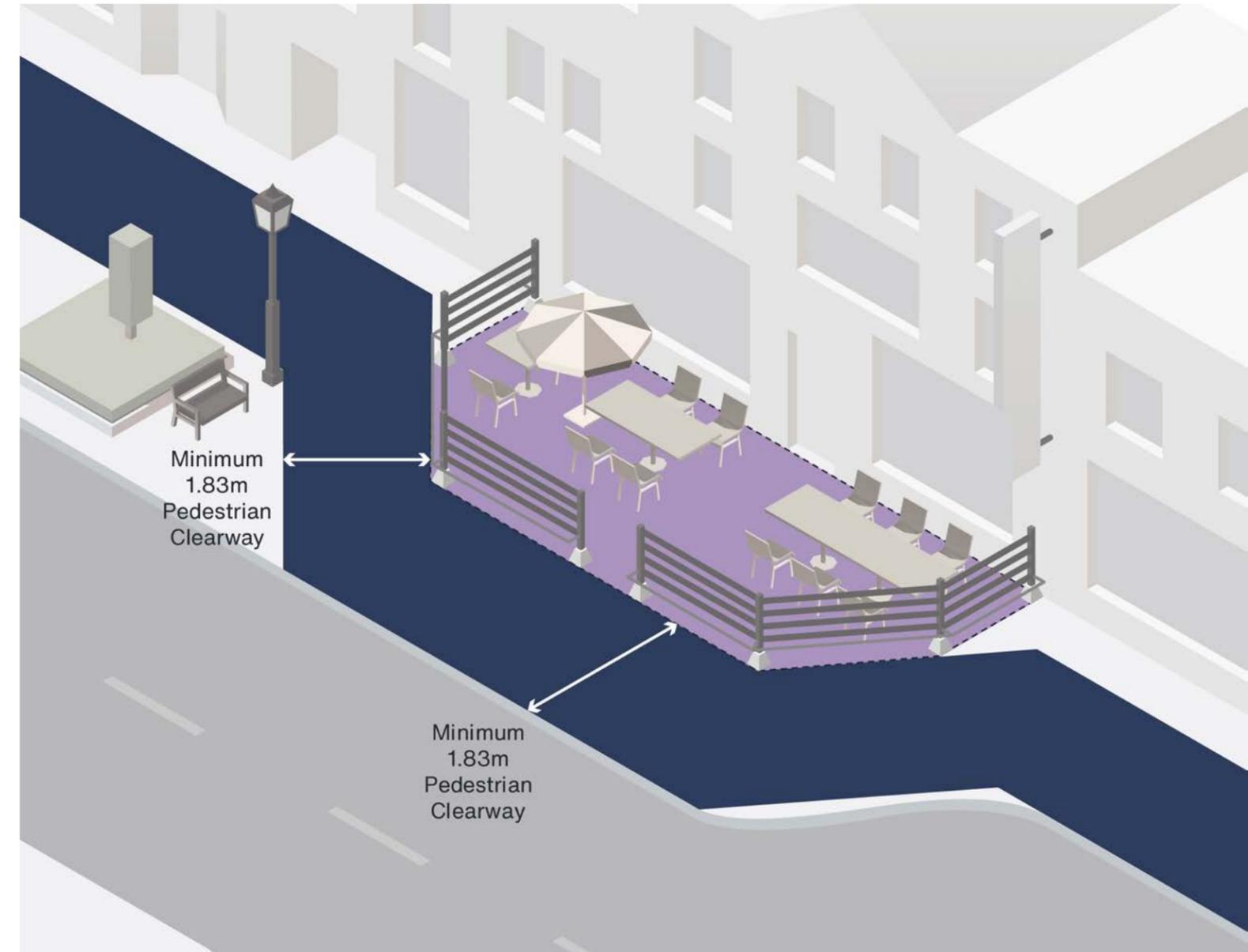


**Fees:** Fees are calculated based on the total area of the patio.



#### Additional Considerations:

- A platform may be used to provide a level patio surface where a slope is present, subject to additional requirements and approvals.
- Patios near corners and intersections have additional requirements to ensure the increased activity will not interfere with pedestrian flow and safety.



#### Legend

- Patio
- Pedestrian Clearway

## 3.3 Pop-up Patios

### 3.3.1 Parking Space Patio

A parking space patio is a seasonable patio suitable for serving and is located in one or more on-street parking spaces. It consists of fencing, tables, chairs, umbrellas, host stands, plants, and/or other patio furnishings. A ramp or platform at-grade with the curb is required to provide access to the patio area. Additional materials may be provided by the City to separate the patio area from the adjacent lane of traffic based on a review of the site. You are responsible for maintaining the patio area and adjacent sidewalk.

**Location:** On-street parking within a parking layby or parking lane.

#### **Suitable Application:**

- Where the width of the sidewalk may be limited and on-street parking is available adjacent to the curb.
- Only permitted on roadways with a speed limit of 50 km/h or less and on-street parking adjacent to the curb.

**Potential Operators:** Restaurants, pubs, and bars interested in operating a pop-up patio during the summer.

**Operating Period:** Four months from May 15 to September 15.

#### **Size & Alignment:**

- The patio must occupy a minimum of one parking space, measuring approximately 6 metres in length.
- The adjacent sidewalk space must be maintained, with a minimum 1.83-metre pedestrian clearway located between the on-street parking and surrounding buildings.
- The patio may be extended onto the sidewalk to create a larger patio area if the minimum 1.83-metre pedestrian clearway can be maintained.
- The patio area may be extended beyond the width of the frontage of your business without permission from

adjacent establishments if the patio is contained within the on-street parking. However, a Letter of Support from the adjacent establishment is required if you wish to set up umbrellas in front of their building.

- The occupied parking should be as close to your business as possible.
- Align the patio entrance with the main entrance of your business where possible.

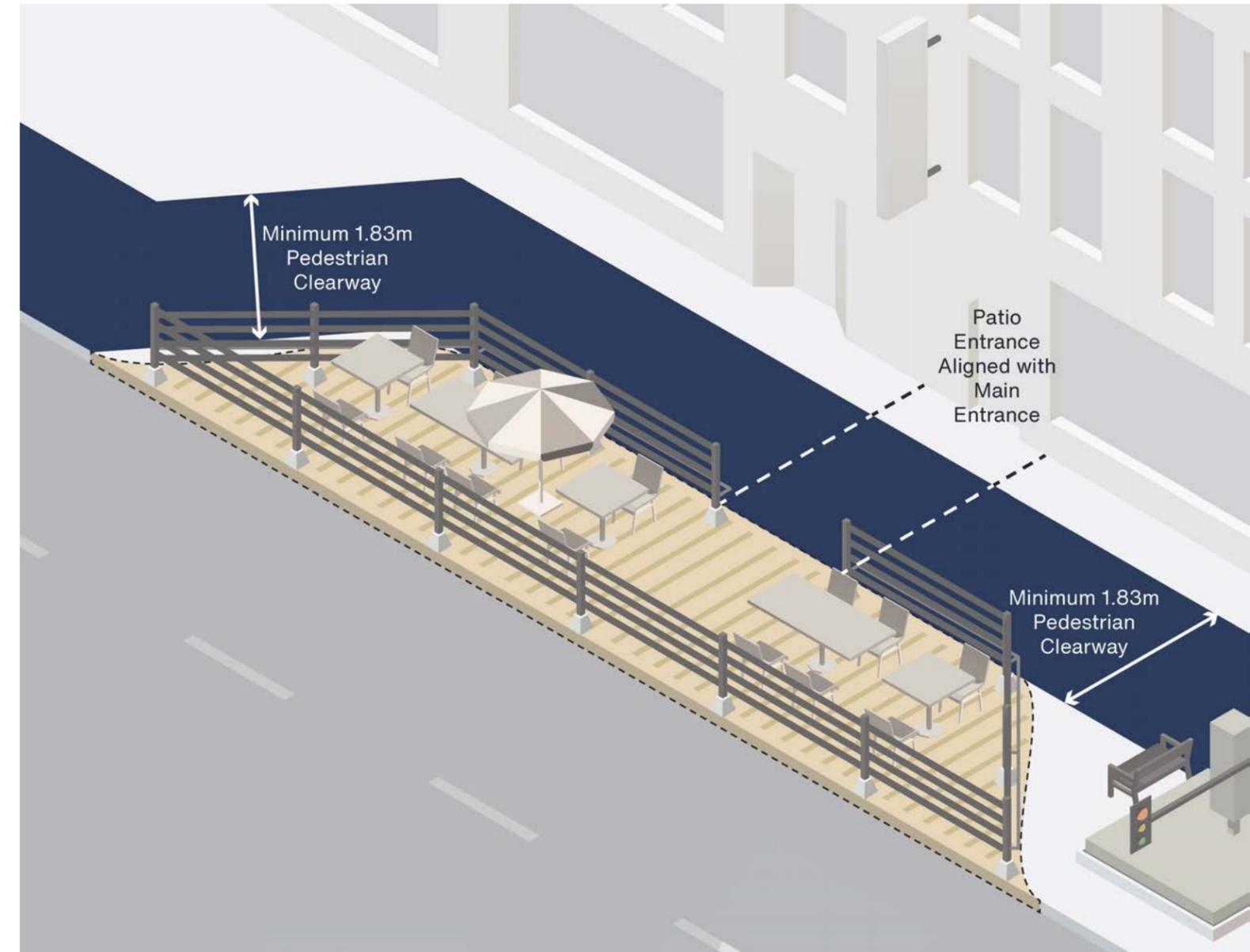
#### **Perimeter Treatment:**

- Enclosed by a stable, secure fence that delineates the patio area from the streetscape.
- If the patio area is not at-grade with the curb, fencing is required to separate the patio area from the adjacent sidewalk.
- Where the City provides additional materials (e.g., concrete barriers) to separate the patio area from the adjacent lane of traffic, additional fencing on the sides of the patio facing the street may be required.

**Fees:** Fees are calculated based on the total area of the patio.

#### **Additional Considerations:**

- The City strongly encourages applicants to construct the patio surface to the same height as the sidewalk via a platform, with minimal gaps between surfaces.
- If you are unable to provide a raised platform, you must provide a ramp to access the patio area.
- Your business must ensure a sufficient landing space is maintained at the top and bottom of the ramp.
- Patio set-ups that use a combination of the sidewalk and on-street parking may only operate for a period of four months from May 15 to September 15.



#### **Legend**

- Patio
- Pedestrian Clearway

### 3.3.2 Patio with Pedestrian Bypass

A patio with a pedestrian bypass is a seasonal patio suitable for serving that is located on the sidewalk along the frontage of the building. It consists of fencing, tables, chairs, umbrellas, host stands, plants, and/or other patio furnishings, and requires an adjacent temporary pedestrian bypass that occupies on-street parking. A platform at-grade with the curb is required to provide access to the pedestrian bypass. Additional materials may be required to separate the pedestrian bypass from the adjacent lane of traffic. You are responsible for maintaining the patio area and pedestrian bypass.

**Location:** On the sidewalk along the building frontage, with the pedestrian clearway diverted onto on-street parking to maintain adequate clearway width.

**Suitable Application:**

- Where the combined width of the sidewalk and adjacent on-street parking space is sufficient to accommodate a patio and a minimum 1.83-metre pedestrian clearway.
- Sidewalk should be free of streetscape elements that would interfere with the patio.
- Only permitted on streets where there is a speed limit of 50 km/h or less and on-street parking adjacent to the curb.

**Potential Operators:** Restaurants, pubs, and bars interested in operating a pop-up patio during the summer.

**Operating Period:** Four months from May 15 to September 15.

**Size & Alignment:**

- Patio area (not including the pedestrian bypass) is limited to the width of the frontage of your business unless permission to extend the patio area is received from the adjacent establishment.
- Must retain unobstructed access to the building and adjacent establishments.
- Align the patio entrance with the main entrance of your business where possible.

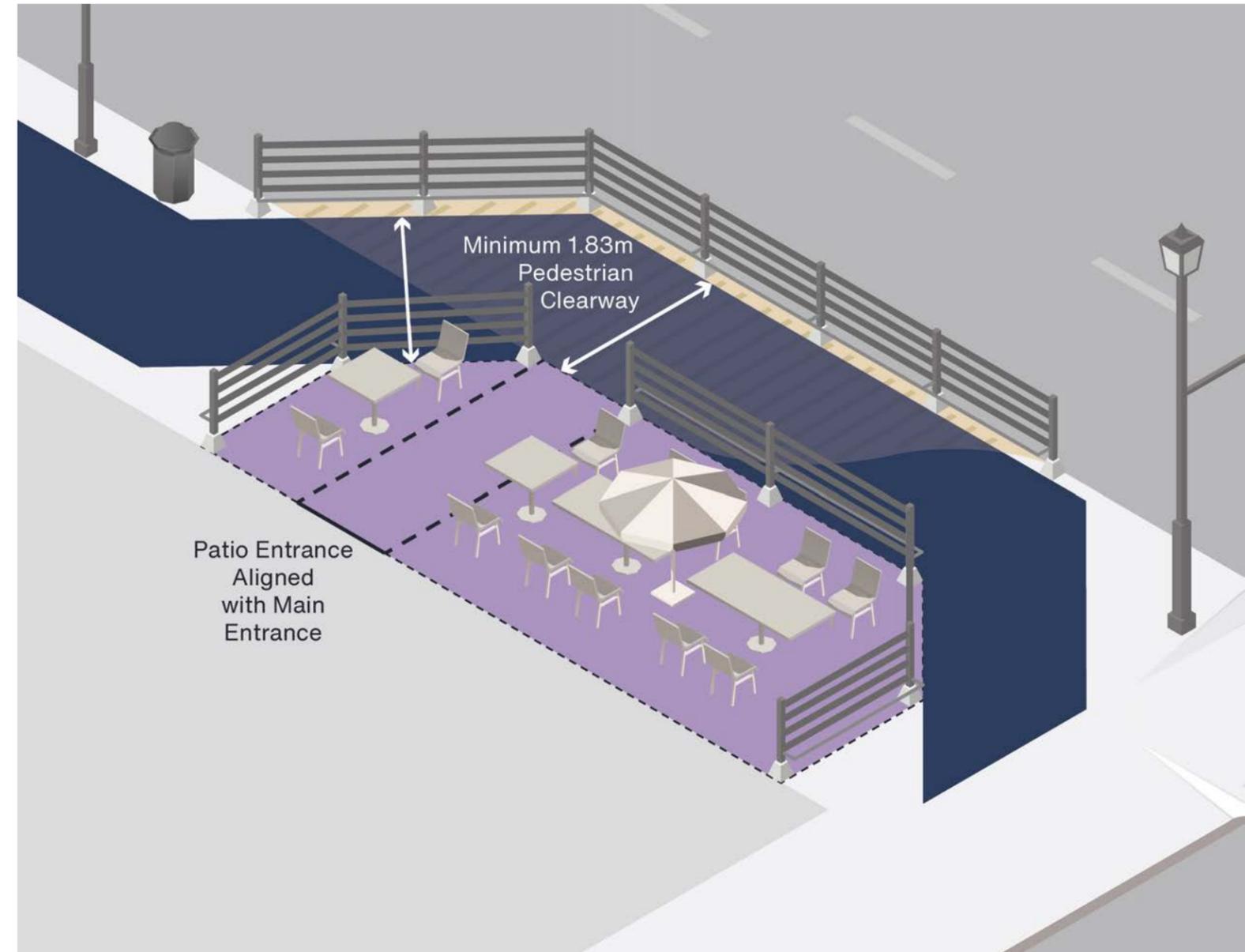
**Perimeter Treatment:**

- Enclosed by a stable, secure fence that delineates the patio area from the streetscape.
- Patio perimeter must include angled patio corners where appropriate to limit the need for pedestrians to deviate from their path of travel.

**Fees:** Fees are calculated based on the total area of the patio.

**Additional Considerations:**

- You are required to provide a platform at-grade with the curb to provide access to the pedestrian bypass. Detailed measurements and other product specifications are required as part of your application.



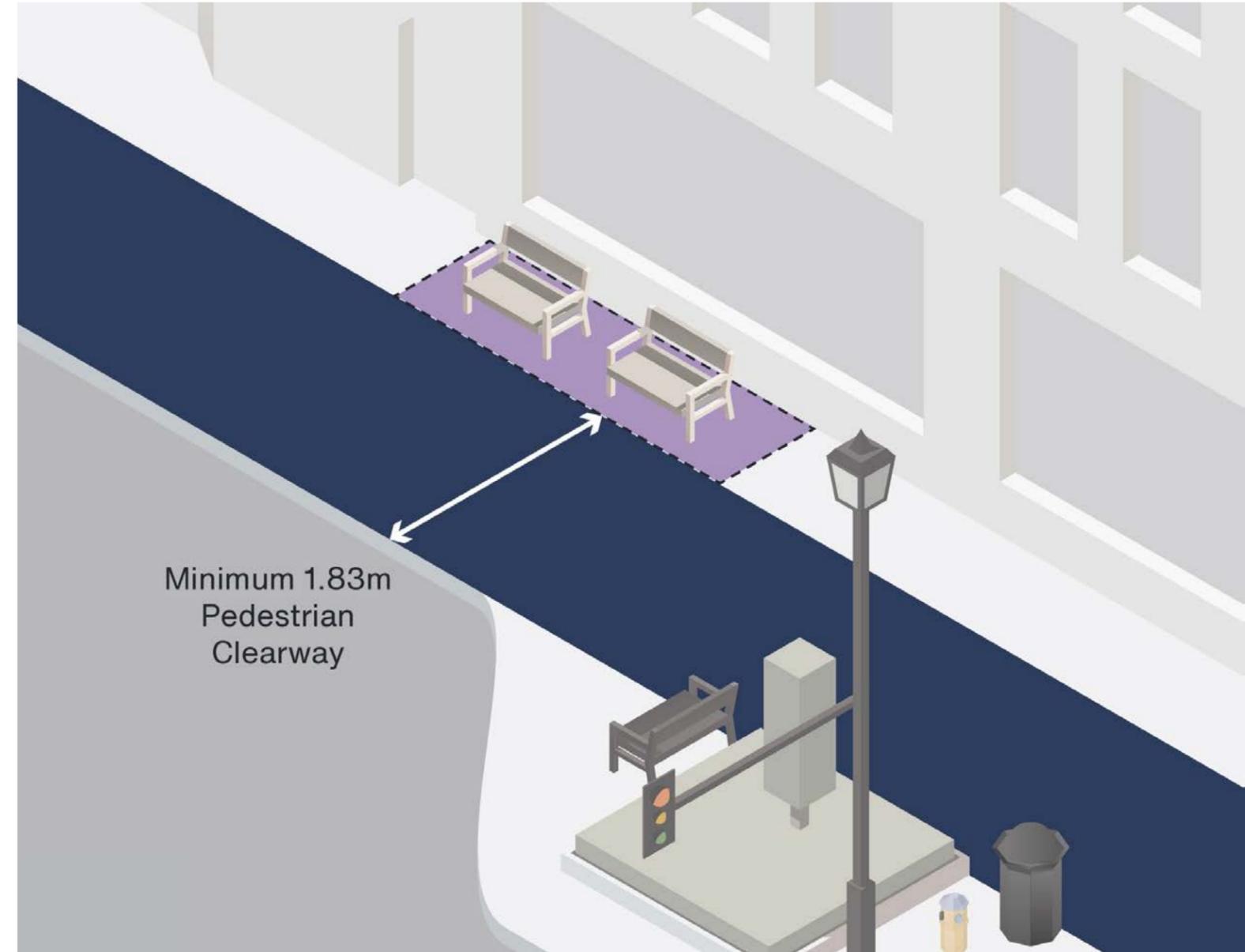
**Legend**

- Patio
- Pedestrian Clearway

### 3.4 Public Seating

If you would like to add public seating in front of your business (limited to 1-2 benches or 1-4 small outdoor chairs) please reach out to the City at [transportation@cityofkingston.ca](mailto:transportation@cityofkingston.ca). You will be required to provide the product specifications of any benches or chairs and where they are proposed to be positioned. A small one-time fee is required.

A minimum 1.83-metre pedestrian clearway must be maintained around the seating. Fencing, tables, umbrellas, and other patio furnishings are not permitted. You are responsible for maintaining the public seating area and adjacent sidewalk.



#### Legend

- Patio
- Pedestrian Clearway

## 4. Winter Patios

### 4.1 Café-Style Patios

Businesses may operate a café-style patio during the winter months. These are street patios with a simple tables-and-chairs setup (no fencing) that is removed from the street daily prior to the closure of the business, and no later than 10:00 pm. You are responsible for the removal of all snow and ice from the patio area for winter maintenance, including keeping the sidewalk clear of all snow and ice as soon as is practicable, and not later than 12 hours after the end of the precipitation that caused the snow and ice. A minimum 1.83-metre pedestrian clearway must be always maintained around the seating and must account for the presence of snowbanks that may further reduce the available clearway width.

Please indicate if you are interested in operating a café-style patio during the winter months when filling out the Street Patio Program Application Form to ensure your patio does not conflict with winter maintenance plans.

### 4.2 Winter Event Patios

Businesses may apply for an encroachment permit to temporarily set up a street patio for events during the winter months. The street patio must be installed and removed during the specified period. To receive an encroachment permit, you must fill out an Encroachment Application Form available on the City's website and submit the completed form to [transportation@cityofkingston.ca](mailto:transportation@cityofkingston.ca).



#### Legend

-  Patio
-  Pedestrian Clearway

## 5. Technical Standards

The following technical standards are in place to ensure:

- Street patios are accessible and can be enjoyed by all.
- Existing pedestrian and vehicle flows are respected and considered in the design of street patios.
- Patrons and pedestrians feel safe in and around street patios.
- Emergency services, municipal operations, and ongoing maintenance are not impeded by street patios.

### 5.1 Patio Access

#### 5.1.1 Entrance

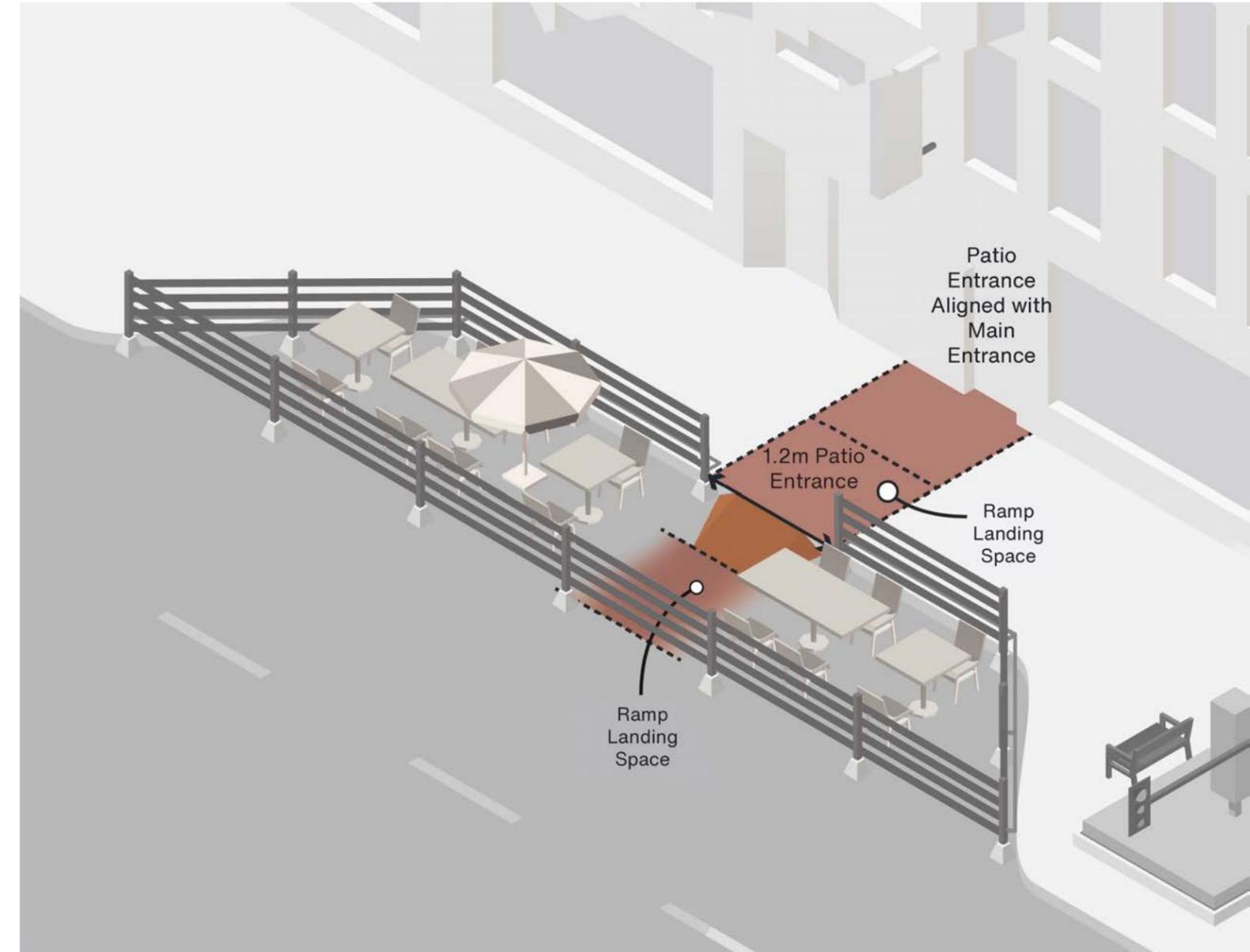
- Patios with fencing are required to have an open, unobstructed entrance from the sidewalk that is fully accessible.
- The patio entrance must have a minimum width of 1.2 metres.
- The patio entrance should align with the entrance of the applicable business whenever possible.
- No signs, menu stands, host stands, or any other objects can impede the entrance such that the clear width is less than 1.2 metres.
- The patio design and set-up must not interfere with any existing accessible entrance or accessibility features of the establishment's premises.

#### 5.1.2 Aisles and Occupant Loads

- A minimum 1.1-metre aisle shall be provided at all times from the patio entrance to the building entrance.
- Approved occupant load limits of the patio area must be adhered to at all times. The combined occupancy of the Restaurant Unit and the exterior outdoor patio area cannot exceed the posted occupant load limit for the Restaurant Unit.

#### 5.1.3 Ramps

- If the patio entrance is not at-grade with the sidewalk, either by being located in on-street parking or on an elevated platform on the sidewalk, a ramp must be present.
- Ramps must be provided by the patio operators.
- Ramps must be hard-surfaced and slip-resistant.
- Ramps must be stable such that they do not shift or move when used.
- A sufficient landing space must be maintained at the top and bottom of the ramp.
- Ramps shall not be affixed to the sidewalk, road, or curb edge with screws, bolts, adhesives, or any other materials.



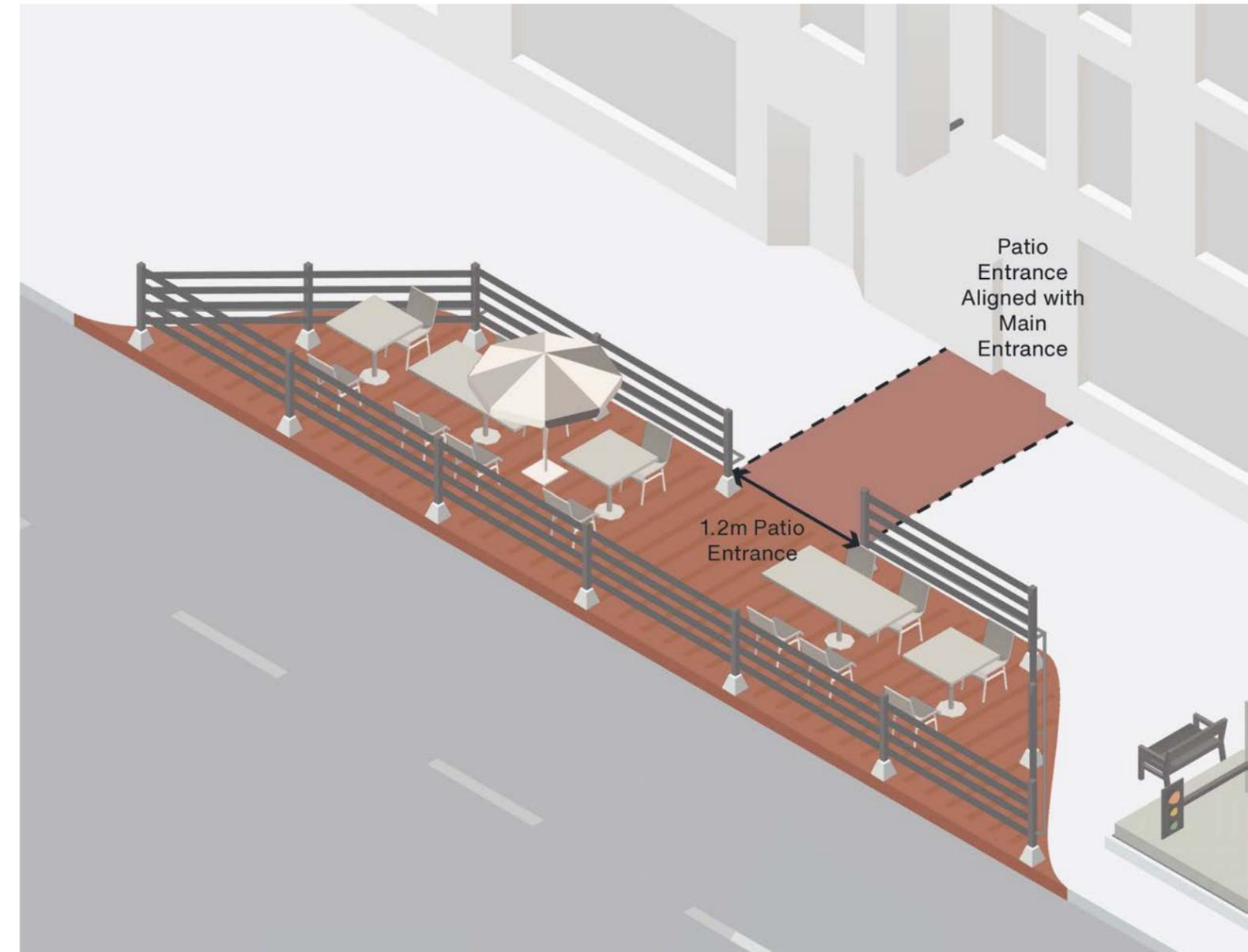
## 5.1.4 Platforms

The City strongly encourages applicants interested in a pop-up parking space patio to deploy a platform to bring the patio surface at grade with the sidewalk, with minimal gaps between surfaces. Platforms may also be used on the sidewalk to provide a level surface for the patio. If you are proposing to construct a platform as part of your patio set-up, you must provide drawings stamped by a Professional Engineer.

Platforms must meet the following standards:

- Platforms must be firm, flat, stable, and have a non-slip, level surface.
- Composite, metal, or wood decking is preferred.
- Spaces between decking should be no more than 1 centimetre in width so as not to allow canes, walkers, wheels, or other mobility assistance devices from becoming lodged or stuck between them.
- All platforms must have entrances that are fully accessible.
- Platforms must have fencing along the perimeter where there is a change in elevation between the adjacent surface.
- Platforms must not damage the underlying surface or obstruct on-site drainage.

- Platforms should be sectional to facilitate easy removal for storage off-site during the off-season.
- Skirting should be applied to the exposed side of the platform to screen structural elements.
- Platform surfaces exceeding 600 millimetres (mm) above the adjacent surface of the sidewalk are subject to the applicable provisions under the Ontario Building Code, including the requirement for a Guard.
- Platforms shall not be affixed to the sidewalk, road, or curb edge with screws, bolts, adhesives, or any other materials.
- No roofs, roof supports, retractable roofing, poles, pergolas, arches, trellises, tents, or tent-like structures are permitted, whether constructed of rigid or pliable materials, unless express written approval is granted by the City and all necessary structural permits are obtained and valid.



## 5.2 Pedestrian Clearway

### 5.2.1 Minimum Width

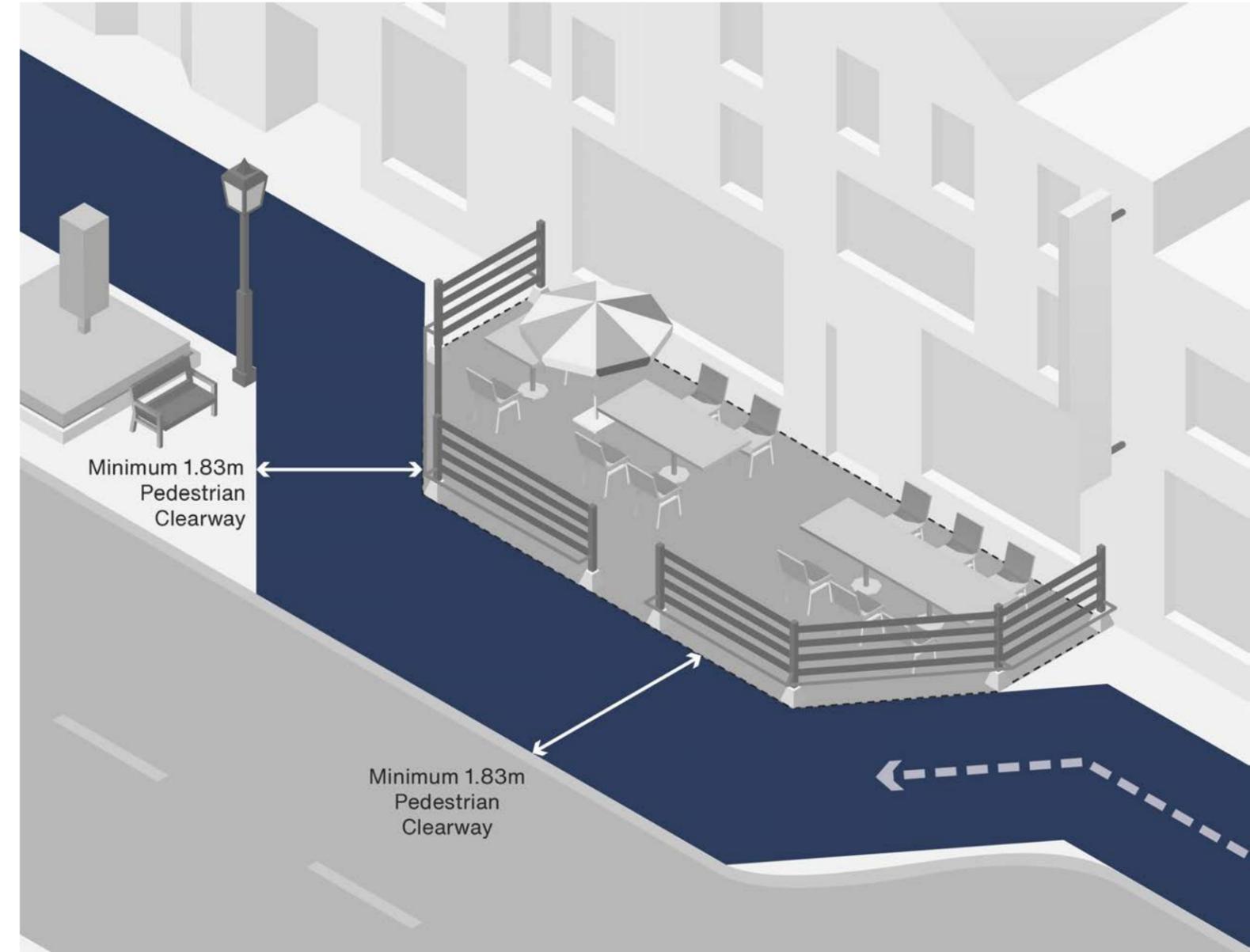
- An unobstructed pedestrian clearway of at least 1.83 metres must be maintained at all times.
- The pedestrian clearway is measured from the inside edge of the curb or any nearby streetscape elements to the perimeter of the patio area.
- The location of the pedestrian clearway relative to the patio will depend on the patio layout and any surrounding streetscape elements.
- The queuing of customers is not permitted in the pedestrian clearway.
- Electrical power cords or any other patio elements are not permitted to cross the pedestrian clearway.

### 5.2.2 Path of Travel

- If the pedestrian clearway is required to deviate around the patio, the corners of the patio must be at an angle that is in line with the adjacent curb.

### 5.2.3 Streetscape Elements

- Fixed streetscape elements that interfere with pedestrian flow, such as light posts, sign posts, street tree grates, parking meters, bike racks, fire hydrants, waste receptacles, benches, mailboxes, and utility boxes, are not permitted within the minimum 1.83-metre pedestrian clearway.



#### Legend

■ Pedestrian Clearway

## 5.3 Road Safety

### 5.3.1 Location Criteria

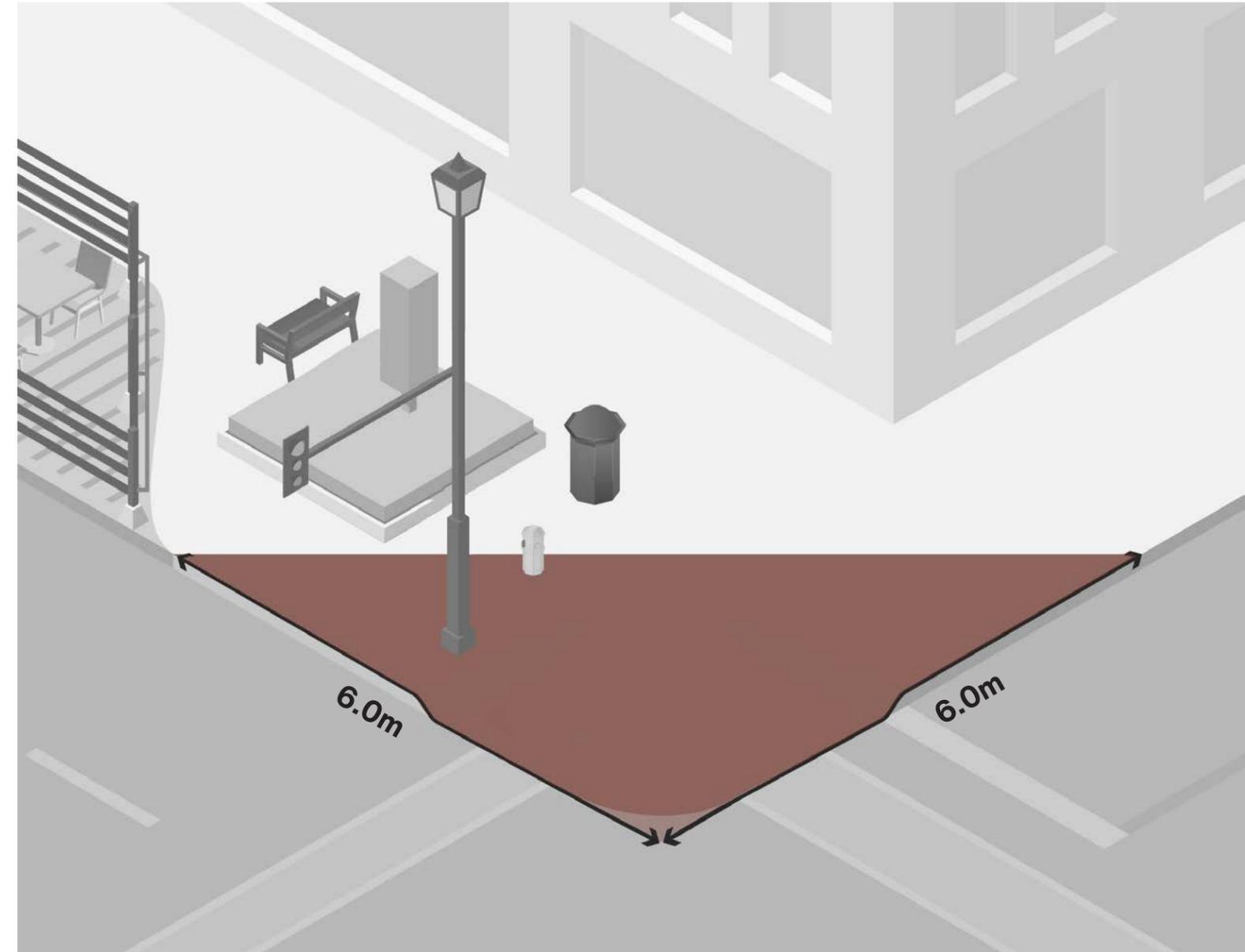
- Pop-up patios that occupy on-street parking are only permitted on roads where each of the following conditions are met:
  - A speed limit of 50 km/h or less
  - No more than 2 lanes of traffic (1 lane in each direction or 2 lanes in the same direction)
  - On-street parking in the form of parking laybys or parking lanes

### 5.3.2 Additional Materials for Pop-up Patios

- Additional materials (e.g., concrete barriers) required to separate the patio area from adjacent lanes of travel and any upstream or downstream parking spaces will be determined by the City based on an assessment of the roadway (if applicable).
- Applicants will be informed of the required materials (to be provided by the City) and the installation plan prior to approval.

### 5.3.3 Sightlines

- Patios proposed near intersections may be subject to further layout restrictions to maintain visibility and clear space at the intersections.
- A 6-metre by 6-metre sightline triangle must be maintained at intersections.
- Patios are not permitted within the sightline triangle.
- Patio furnishings, including umbrellas, fences, plants, and any other opaque materials, shall not obstruct vehicular or pedestrian sightlines, visibility, or movement.
- Where a pop-up patio in an on-street parking space is located in front of an adjacent business, umbrellas and any other patio furnishings that are more than 1.2 metres in height from the surface of the patio area are not permitted in front of the adjacent business without written permission.



**Legend**  
■ Sightline Triangle

## 5.4 Fire Safety

### 5.4.1 General

- Patios are subject to all applicable regulations, including the Ontario Fire Code and the Ontario Building Code.
- Tents and other coverings are required to meet flame-resistance certifications (CAN/ULC-S109, or NFPA 701) unless express written approval is granted by the City and all necessary permits are obtained and valid.

### 5.4.2 Emergency Access

- The City and all public utility agencies retain the right to access the patio area without notice in the case of an emergency.
- The City retains a right of access over, to, and upon a street patio for emergency vehicle access.
- Fire hydrants and other fire connections must be visible from the street and accessible at all times.
- Fire routes must not be obscured by a street patio.
- If a street patio is longer than 15 metres, a review may be conducted by the local fire department to determine whether any emergency access points are required.

### 5.4.3 Portable Heating Devices

- Must conform to the safety standards established by the Canadian Standards Association (CSA) and be certified by the Underwriters' Laboratories of Canada (ULC).
- Must meet the requirements of the Ontario Technical Standards and Safety Act, 2000.
- Shall not be placed in or above any parking spaces and are only permitted in patios located on a sidewalk.

- Shall not have any power cords or electrical wires that cross a municipal sidewalk or roadway.
- Must be used in compliance with all of the manufacturer's instructions for required clearances above, around, and underneath heaters.
- Must be designed for outdoor use only.
- Must be placed in a well-ventilated area.
- Must be free-standing, with a minimum height of 1.6 metres and a maximum height of 3 metres.
- Must have an anti-tilt feature that automatically shuts off the heater.
- Must be installed on a flat, solid, non-combustible surface (i.e., not on grass or uneven sidewalk).
- Must be properly secured to adequately protect against wind and other potential weather hazards.
- Must maintain a minimum 1-metre clearance from the base of the unit to any combustible material.
- Must be accompanied by a fire extinguisher that is located near the patio area (e.g., within the nearest building entrance).
- Must be turned off and allowed to cool sufficiently before moving.
- Shall not be placed underneath any combustible structure, including combustible umbrellas and awnings, with the exception of commercial grade and professionally installed electric heaters.
- Shall not be placed near any air intakes.
- Shall not obstruct any fire escapes/exits or hinder access to any fire department connections.

### 5.4.4 Propane Tanks

- Must be used in compliance with all the manufacturer requirements for transportation, operation, and storage.
- Must be out-of-sight and locked in an outdoor vented structure when not in use.
- Must be stored upright and protected against tampering, unauthorized movement, dropping or vehicle impact that could result in a leak or fire.
- Must be moved cautiously to avoid dropping or impact.
- Must be disconnected before storing any patio heaters indoors.
- Must be 9 kg (20 lb) or less.

### 5.4.5 Open-Flame Devices

- No open flames are permitted within the patio area, including cooking devices, open-air fires (e.g., bonfires, solid, gel or liquid fuel burning), and tabletop heating devices.

## 5.5 Buffers

- Patios must allow sufficient space for City staff, contractors, and utility companies to service, access, repair, or maintain trees/plants, fire hydrants and connections, electricity elements, natural gas connections, waste receptacles, and other street assets.
- Patios must not interfere with pedestrian crossing areas, transit stops, vehicle access points, stormwater drainage, or other necessary roadway elements.
- For café-style patios located along the curb, a 0.5-metre buffer must be maintained between the patio area and the inside edge of the curb.
- Gas assets or meters require a buffer of 0.6 metres from the patio limits.
- Parking meters and maintenance holes require a buffer of 1 metre from the patio limits.
- Fire hydrants and other fire connections, utility vaults, and public waste receptacles require a buffer of 1.5 metres from the patio limits.
- Streetscape elements that require public access, such as parking meters, waste receptacles, and benches, are not permitted within the patio area.
- Street trees may be incorporated into the patio area.

In limited instances, the City may approve a street patio that is unable to meet the buffer requirements outlined above.

## 6. Design Standards

The following design standards are in place to ensure:

- Street patios are visually appealing and enhance the public realm.
- Patio furnishings and materials are functional and of high quality.
- Street patios add to the street activity and are not enclosed or separated.
- A vibrant patio culture is established.

### 6.1 General

- Patio furnishings and materials must be removable and not permanently fixed in place.
- Patio furnishings and materials shall not interfere with the visibility of adjacent businesses.
- All objects associated with the patio must be contained within the approved patio area and must not interfere with the adjacent pedestrian clearway or vehicle travel lane.
- Patios should integrate with the streetscape and be free of any enclosures, unless express written approval is granted by the City and all necessary permits are obtained and valid.
- The design of street patios, including fencing, tables, chairs, umbrellas, and plants, must promote high-quality design and **requires written approval by the Downtown Kingston BIA** if the business is located in this area.
- The City encourages creativity and the development of unique outdoor dining spaces within the established design standards.



## 6.2 Fencing

- All serving patios require fencing that forms a fully enclosed perimeter that delineates the patio area, except for the patio entrance.
- Fencing must have a minimum height of 0.9 metres and a maximum height of 1.2 metres from the surface of the patio.
- Fencing must be free-standing through the use of weighted footplates or alternative supports and cannot be anchored or affixed in any way to municipal property or other infrastructure, including sidewalks.
- Fencing must be of sturdy construction and secured in such a fashion that it will support the weight of an individual should it become necessary to use the fence to brace oneself to prevent a fall.
- Self-supporting plates shall not create a trip hazard or project beyond the limits of the approved patio area.
- Fencing must be open and transparent to maintain visibility from the street and reduce the risk of high winds moving the patio structure.
- Fencing must be constructed of metal, wood, or composite materials.
- Metal and composite fencing must be dark or neutral in colour (preferably black).
- Fabric, canvas, rope, and other non-rigid materials are not permitted to be used as fencing.
- Fencing must have a solid continuous line that would allow pedestrians to follow along the edge of the patio area.
- Fencing adjacent to the pedestrian path of travel must have a fixed and continuous cane-detectable lower railing with a height between 75 mm and 150 mm above the sidewalk surface.
- Planters can be used in combination with fencing to define the patio area, provided that the planters have a solid base that is cane-detectable and continuous with the fence line.
- Planters can be used in combination with fencing to define the patio area, provided that the planters have cane-detectable railing as described previously.
- Fencing may be required where the City has provided additional perimeter materials for pop-up patios in on-street parking, such as concrete barriers.
- No advertisements are permitted to be affixed to the patio fence, including signs or banners.
- Fencing for licenced patios may be subject to additional requirements set by the AGCO.

## 6.3 Tables and Chairs

- A mix of two and four-seat tables should be provided in the patio area to offer a variety of seating options.
- All tables and chairs must be made of durable, weather-resistant materials that are easily cleaned.
- Tables and chairs must be made of matching sets and be consistent throughout the patio.
- Tables and chairs must be moveable and of a solid weight for stability.
- Tables and chairs must be able to be arranged to be accessible for patrons utilizing mobility devices, with consideration for knee and toe clearance, forward approach, turning radius, and transfer option

## 6.4 Menus and Signage

- Menu boards, sandwich board signs, and snap frame signs are permitted within the patio area, provided they meet the requirements of By-Law Number 2009-140, the Signs By-Law, as applicable.
- Menus and signage are not permitted within the pedestrian clearway adjacent to the patio area.
- Menus and signage boards may not extend above 1 metre from the surface of the patio area and cannot obstruct views.
- Menus and signage are not permitted to be affixed to buildings or fences unless express written approval is granted by the City and all necessary permits are obtained and valid.

## 6.5 Host Stands and Garbage Receptacles

- Host stands are permitted within the patio provided they are contained within the permitted area.
- Garbage receptacles are permitted within the patio provided they are located with host stands and are not a prominent feature within the space.

## 6.6 Plant Materials

- Plant materials must be healthy, living, and maintained throughout the patio season.
- Plant materials may be affixed to fencing provided they do not protrude more than 100 mm horizontally from the cane-detectable railing and do not interfere with the minimum pedestrian clearway of 1.83 metres.
- The required minimum clearway is measured from the furthest protruding point, including the foliage of the plant materials as applicable.

- Plant materials along the perimeter of the patio may extend to a maximum height of 1.5 metres above the surface of the patio provided they do not interfere with sightlines.

## 6.7 Lighting

- Lighting is permitted provided it is contained within the boundaries of the patio and does not infringe on the adjacent pedestrian clearway.
- The brightness of the lights should be sensitive to the uses surrounding the patio and should be directed onto the patio, away from neighbouring properties and the street.
- Lighting must not create glare that impedes the safety of motorists and other public realm users.
- Lights are not permitted to be attached to trees, utilities, or other street elements.
- Lighting must comply with all applicable safety standards.
- Lighting must use the main electrical panel or a metered power source that the patio operator is responsible for. City-owned power receptacles cannot be used under any circumstances.
- String lights must be high enough so that patrons can move freely beneath them. No part of the string lighting may hang less than 2.1 metres above the ground.

## 6.8 Umbrellas

- Umbrellas must have a minimum height of 2.1 metres above the surface of the patio.
- Umbrellas must be fully contained within the patio area and not protrude into the roadway or pedestrian clearway.
- In limited instances, the minor encroachment of an umbrella may be considered over a public sidewalk subject to City approval.
- Umbrellas are not permitted in front of an adjacent business unless written permission is received.

## 6.9 Surface Coverings

- Only the sidewalk, on-street parking, or constructed decking is permitted to be used as the surface of the patio area.
- The installation of outdoor carpeting, artificial turf, or other surface coverings is not permitted in the patio area unless express written approval is granted by the City.

## 6.10 Screens

- Screens are not permitted along the perimeter of the patio unless express written approval is granted by the City.

## 6.11 Temporary Structures

- Temporary structures, such as tents, domes, vestibules, and wooden frameworks, are not permitted on municipal sidewalks or within on-street parking spaces unless express written approval is granted by the City and all necessary structural permits are obtained and valid.



## 7. Operation and Maintenance Requirements

Patio operators must adhere to the following operation and maintenance requirements to maintain good standing. If you do not comply with the standards and requirements of this guide, you will first be given a warning detailing the issues and a timeline to fix the problem. The City may terminate a street patio agreement immediately upon written notice to the patio operator for breach of any provisions. The City may also deny the renewal of a street patio agreement for patio operators that fail to maintain good standing.

At any time, the City may request the removal of a patio for any reason, including safety, construction, or community needs.

### 7.1 Insurance

- Patio operators are required to obtain and maintain commercial general liability insurance in the minimum amount of \$5,000,000, including the City of Kingston as an additional insured.
- Insurance must be maintained for the entire duration of the patio operating period.
- Insurance may not be cancelled, lapsed, or materially changed without the insured giving a 30-day notice to the City.
- A signed and stamped Certificate of Insurance must be provided by the applicant after a street patio is approved or before a previously approved street patio is renewed in a subsequent year.

### 7.2 Liquor Sales Licencing

- Liquor sales licencees and manufacturers that hold a by-the-glass endorsement who want to operate a street patio will need approval from the City of Kingston prior to making a submission to the AGCO.
- Upon obtaining approval from the City of Kingston, licencees must notify the AGCO by making a submission on the iAGCO portal before selling or serving liquor on the street patio.
- The AGCO will require the following information:
  - The start date that liquor will be sold and served on the street patio.
  - How many months per year you have been approved to operate the street patio.
  - The months that you intend to operate the street patio.
  - The expiry date of your approval.
  - A description of the location and dimensions of the street patio.
  - Any conditions that have been imposed.
- Street patios with a liquor sales licence or by-the-glass endorsement may only operate for a maximum of eight months per calendar year.



## 7.3 Installation and Removal

- Frontage patio operators may commence construction of their patio on the Monday of the last full week of March.
- Patio operators must disassemble the street patio and remove all furnishings and materials from the right-of-way on the final day of the specified operating period (or earlier).
- Patio operators must return the street, sidewalk, and/or other municipal property to its original condition at the end of the operating period to the satisfaction of the City.

## 7.4 Daily Operation

- Patio operators must ensure the street patio continues to be used in adherence with the standards outlined in this document.
- Operators of parking space (pop-up) patios must have regular business hours that align with operating the street patio for a minimum of five days per week during the patio season.
- Operators of parking space (pop-up) patios that are found to be operating their patio less than five days per week (weather permitting) will receive a warning, and may subsequently be required to remove their patio.
- Patio operators must maintain the adjacent pedestrian clearway, including the removal of any garbage or debris (e.g., cigarette butts, spilled food, or liquids).
- Patio operators must assume the responsibility of refuse disposal and must not dispose of waste using public waste receptacles.
- Patio operators must secure or store the patio furniture when not in use outside the hours of business operation.

- Patio operators must obtain written approval prior to implementing any changes to the approved patio design and layout, including the addition of heaters or other patio furniture.
- Patio operators are not permitted to cook or prepare food in the patio area.
- Patio operators are solely responsible for any repairs to the patio during the operating period.
- Patio operators must ensure noise levels comply with the regulations outlined in By-Law Number 2004-52, the Noise By-law, as applicable.
- Patio operators must ensure the patio area and a 9-metre radius surrounding the patio remains free of smoking, vaping, or the use of cannabis, in accordance with the Smoke-Free Ontario Act.



## 8. Program Fees

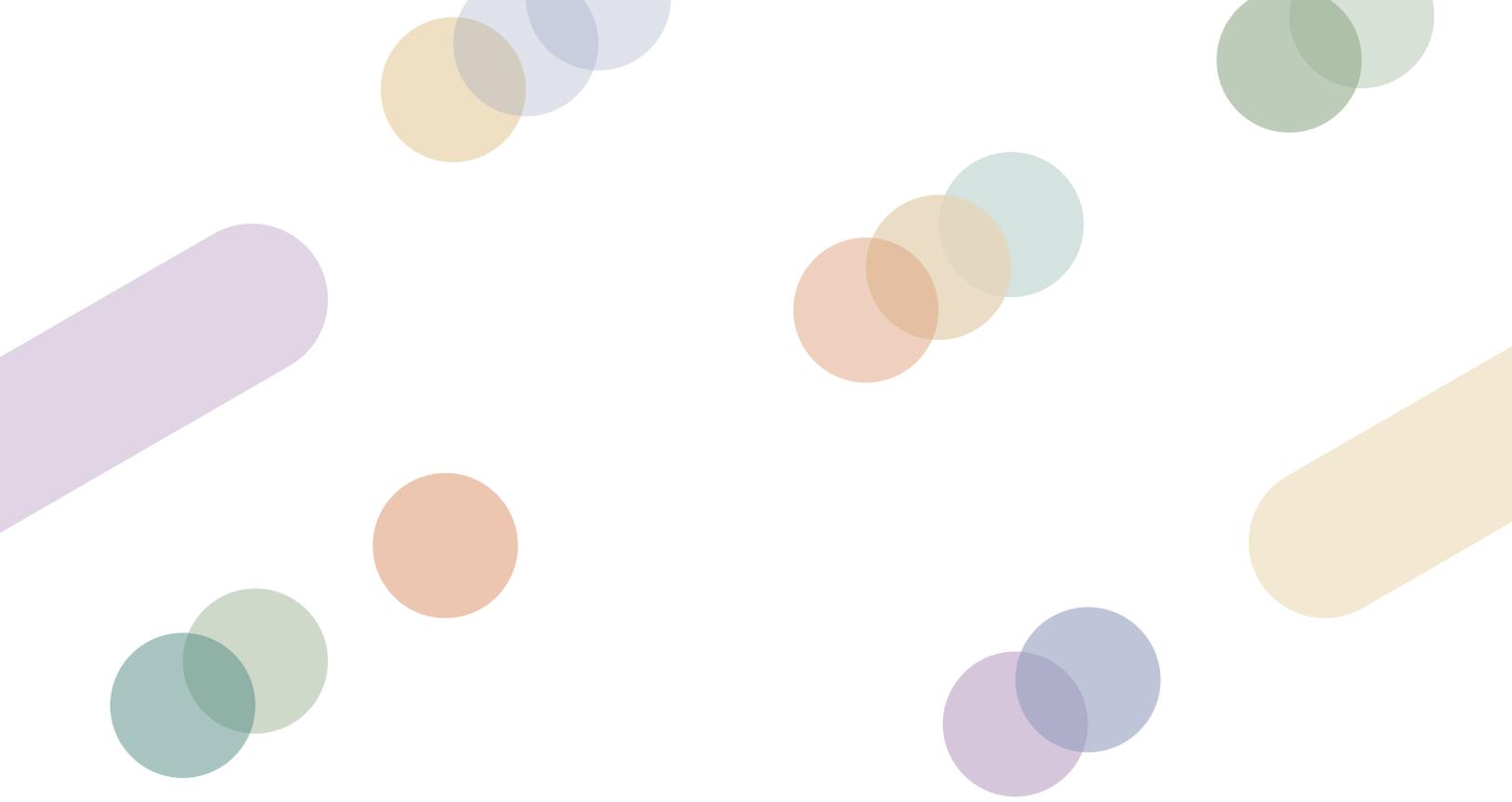
The fees required to apply and participate in the Street Patio Program are outlined in By-Law Number 2005-10, the Fees and Charges By-law, which is available on the City's website. The fees can be quickly found within the by-law by searching for "patio". The Street Patio Program fees outlined in the Fees and Charges By-law are subject to change in accordance with any amendments to the by-law.

## 9. Contacts

For general inquiries about the street patio program or any questions about the information included in this document, please contact [transportation@cityofkingston.ca](mailto:transportation@cityofkingston.ca).

For assistance with the design of your street patio and selection of furnishings and other materials, please contact [member@downtownkingston.ca](mailto:member@downtownkingston.ca).





**Temporary Exemptions – Non-Conforming Patios**

The following temporary exemptions apply only to existing non-conforming street patios that: (1) were established prior to the City’s COVID-19 temporary patio program; and (2) are or were authorized by a valid licence agreement with the City. For clarity, the temporary exemptions do not apply to any patio that was first established as part of the City’s COVID-19 temporary patio program. The temporary exemptions have no force or effect until such time that they are incorporated into a valid licence agreement duly executed by the licensee and the City. The City expressly reserves the right to incorporate terms, conditions and covenants related to the application and cessation of the temporary exemptions in the licence agreement, including, without limitation, provisions requiring the licensee to comply with the City’s current Street Patio Standards upon any major redevelopment, reconstruction or reconfiguration of the patio, or in the event of a change of ownership or management of the premises to which the patio relates.

Index	Proposed temporary exemption(s) for existing non-conforming patios that are licensed under an active licence agreement with the City.	Corresponding provision in the Street Patio Standards
1.	A reduced minimum patio entrance width of 0.9 metres and minimum aisle width of 0.9 metres from the patio entrance to the building entrance will be permitted until such time that the licensee (i.e. patio operator/owner) changes, or until the patio fencing and/or platform is proposed to be replaced, reconstructed or reconfigured by the licensee.	5.1.1 – The patio entrance must have a minimum width of 1.2 metres.  5.1.2 – A minimum 1.1-metre aisle shall be provided at all times from the patio entrance to the building entrance.
2.	A reduced minimum unobstructed pedestrian clearway of 1.5 metres, maintained at all times, will be permitted until such time that the licensee (i.e. patio operator/owner) changes, or until the patio fencing and/or platform is proposed to be replaced, reconstructed or reconfigured by the licensee.	5.2.1 – An unobstructed pedestrian clearway of at least 1.83 metres must be maintained at all times.
3.	Patios with existing elements that anchor or affix to the sidewalk will be permitted to continue to do so provided reasonable efforts are taken to cap the holes when the fencing is removed, such as the use of flat-head socket caps that sit flush with the sidewalk, or any other method or material acceptable to the City. This exemption will be provided until such time that the licensee (i.e. patio operator/owner) changes, or until the patio fencing and/or platform is proposed to be replaced, reconstructed or reconfigured by the licensee, at which point the licensee may be required to reimburse the City for necessary repairs and/or replacement of sidewalk panels.	6.2 – Fencing must be free-standing through the use of weighted footplates or alternative supports and cannot be anchored or affixed in any way to municipal property or other infrastructure, including sidewalks.
4.	Patios with an existing screen(s) will be granted express written approval via the new licence agreement.	6.10 – Screens are not permitted along the perimeter of the patio unless express written approval is granted by the City.
5.	Patios will be assumed to be exempted from existing buffer requirements based on prior approvals. The City reserves the right to require modifications to the patio layout to maintain utility and fire access on an as-needed basis.	5.5 – Buffers