

2023

CITY OF VICTORIA | Engineering

Outdoor Patio Information Guide



This guide provides information to support business applications for the use of public space for outdoor patios under the **Patio Bylaw Regulation (No. 23-035)**. Fees, fines and licence rates are included in the Bylaw and will depend on the location and type of patio.

The information in this guide shall not be construed as authorizing or approving any improvements or uses of the public right-of-way that are inconsistent with City Bylaws. Other associated approvals, such as increases in occupancy load or approval for liquor licensing are separate.

This document may be updated periodically to improve information shared about the program. Please consult the **City's website** to ensure you are viewing the most recent version.

Introduction

Outdoor patios can enhance city streets and public spaces, add vibrancy and provide opportunities for economic activity. Food and beverage businesses who have a current and valid business licence are eligible to apply to establish and operate an outdoor patio on public property. All costs associated with planning, applying, installing, maintaining and removing patios are the responsibility of the business.

Patios are licensed annually and must be safe, accessible and maintain functional access to City infrastructure. Patios are not guaranteed in every location and are subject to technical requirements driven by municipal priorities and specific site characteristics.

City staff will work with applicants to investigate each site, determine suitable options and collaboratively generate design solutions that can support the animation of public space while serving business needs.

Guiding Principles

These guiding principles inform the City's decisions on outdoor patio proposals.

- **Sense of Community:** Patios should increase the vibrancy of the streetscape and strengthen community connections by facilitating social interaction among local businesses, patrons, neighbours and visitors.
- **Neighbourhood Character:** Patios should enhance, respect and celebrate the unique character of the surrounding buildings and neighbourhood.
- **Recognition of Value:** Licence fees should be applied in a fair, defensible and balanced manner that encourages business development while compensating the City for private use of public land. Private economic opportunities should be balanced with the protection of public space for the broader enjoyment of the public.
- **Ease of Movement:** Locations and designs of patios should ensure that the mobility of people walking and rolling along sidewalks and surrounding pathways are not negatively impacted. Patios should not unduly disrupt transit, loading and other mobility needs on a streetscape.
- **Safety:** Patio designs and operations should prioritize public safety and allow for emergency response.
- **Inclusion:** Patio designs should support an open, accessible and welcoming environment that encourages a diversity of people to use the space together.
- **Flexibility:** Patios should be designed and implemented in such a way that they can be modified as required to respond to business needs along with changing mobility requirements and maintenance of the right-of-way.

Application Steps

1. Read this Information Guide. There are helpful hints, tips and information enclosed. You may wish to speak to a professional who can help you develop ideas and plan for a successful patio application.
2. Start with a pre-application site meeting with City staff. Contact **eng@victoria.ca** to book your appointment.
3. Complete the application form and submit all required documentation.
4. City staff will contact you to pay the application fee (\$100), due before the application is processed.
5. Install the patio per approved terms and conditions.
6. Book a patio inspection.
7. Pay the patio licence fees.
8. Obtain the patio licence, apply the patio decal and begin operations.

Note: Please contact your property management company or building owner to discuss the suitability of a patio location and their level of support for the proposal before reaching out to the City.

Outdoor Patio Licence Requirements and Expectations

The City of Victoria requires a culture of stewardship from all outdoor patio licensees. We want to ensure all food and beverage operators who are using public space are prepared to take care of, steward and protect the public realm.

All applicants will be required to:

- Maintain compliance with all program requirements and licence terms.
 - The City will conduct spot compliance checks to ensure that businesses follow all program requirements and licence terms.
 - Patio operators must be prepared to remove furniture and/or fixtures to accommodate emergency repairs or planned City capital and maintenance works, including surface infrastructure, underground infrastructure and natural infrastructure such as trees.
- Obtain and maintain required insurance coverage.
 - The City must be added as an additional insured, with a cross liability clause, to every policy of insurance. The City must be provided with proof of such coverage prior to the issuance of a licence or renewal. The licence terms provide further information on mandatory notification requirements for changes to insurance.

- Adhere to provisions of City and CRD bylaws including, but not limited to:
 - Patio Regulation Bylaw
 - Noise Bylaw
 - Sign Bylaw
 - BCLCRB Regulations
 - CRD Clean Air Bylaw
 - Work Safe BC requirements
- Maintain the patio at all times including but not limited to timely repairs of hazards or barriers, painting, cleaning and graffiti removal.
 - Patios located on roadways also require seasonal cleaning of road gutters to allow water flow and annual replacement/refreshing of reflective materials for nighttime visibility.
- Provide recycling, garbage and compost receptacles within the approved footprint as reliance on public facilities for waste management is not permitted.

Balancing needs in a growing city

Trade-offs can be a part of the design process, and City staff will work with your business to carefully balance safety, equity, affordability and sustainability. The City of Victoria reserves the right to the following:

- Review all applications and direct the applicant to conduct additional engagement with adjacent businesses, residents or property owners.
- Direct changes to the layout of approved space or new installations based on distribution, adjacent demand, operational needs or the health, safety and general welfare of the public. All costs associated with changing or adapting space are the responsibility of the licence holder.
- Require a temporary pause and/or closure of a patio, without notice, for critical maintenance, utility work, tree branch trimming or emergency purposes. While maintenance work will typically be planned, there may be occasions where emergency closures are necessary. The City is not responsible for any damages or losses associated with paused, closed or removal of patios.
- Request additional information such as engineered drawings, noise assessment, tree health assessment or waste management plan to support the application.
- Introduce specific licence terms in accordance with powers under the Patio Regulation Bylaw.

Outdoor Patio Options and Design Guidelines

Patio Designs and Furnishings

Patios should have an open appearance and contribute to a feeling of vibrancy and activity on the street.

- Patio areas are to remain within the frontage boundaries of the business and all furnishings, awnings, umbrellas, signage, lighting and planters should be located within the approved patio area. There should be no elements overhanging or protruding outside the boundaries of the permitted area.
- Patios are only permitted in locations where they do not permanently obstruct access to public utilities, service connections, building exits, fire exits, deliveries to buildings and access for emergency vehicles. All materials used in the approved patio footprint must be easily movable for maintenance needs within 2 business days.
- Furnishings – such as tables, chairs, and accessories – should be commercial grade, safe, made of durable materials and manufactured for outdoor use. Businesses should consider materials that are complementary to the streetscape character with preference for slender, light gage materials, use of galvanized or black painted metal, natural wood and neutral colours.



Above left: Example of self-watering planters. Source: **SWRL Millennium series planters**.

Above right: Example of removable umbrella with weighted base. Source: **California Umbrellas**.



Above: Example of modular, prefabricated street frame, rails and all-weather decking. Source: **Dero Parklet.**

Possible Outdoor Patio Locations

The City may approve patios on sidewalks, roadways, plazas or select parks. Outdoor Patio licences can be considered in locations such as Centennial Square, Bastion Square, Fernwood Square, a portion of Millie's Lane and West Song Walkway if the food and beverage establishment is located with frontages in these areas.

Patio Licence Options

Duration

Businesses can apply for either an Annual (year round) or Seasonal (April 1 to September 30) Patio Licence.

Patio Type

There are two types of outdoor patios:

- **Simple:** located on a sidewalk or plaza, furnishings are removed daily by the business.
- **Complex:** located on a sidewalk, plaza or roadway, a built structure that remains in place when the business is closed.

Simple Patios

Simple outdoor patios can be located on a sidewalk or in a plaza. Furniture and objects within the patio area are removed daily by the business.



Above: Examples of a simple patio where furniture would be removed from the public right of way when the business is closed.

Placement of tables and chairs on the sidewalk must not interfere in any way with curb ramps, access to the building, driveways or access to fire hydrants. In addition, there will be varying requirements for clearance from the patio footprint to the nearest obstruction (tree, bike rack, signpost, utility pole, bench, portable sign, bus shelter, etc.). These distances will be discussed at the pre-application meeting.

Pedestrian Diverters

Simple patios require pedestrian diverters on each end of the dining area to guide pedestrians around the outdoor patio space. The objects within the patio may not extend beyond the depth of the diverters at any time. The diverters must be:

- At least 0.76 m (30 in) high, 0.3 m (12 in) wide, and 0.61 m (24 in) long
- Sturdy, stable and heavy enough so they cannot tip over or be blown away by the wind
- Distinctly visible to persons with vision loss with contrasting colors
- Flush with the building at approximately 90 degrees
- Free of advertising



Above: Examples of pedestrian diverters located on each end of the patio area.

Complex Patios

Complex outdoor patios can be located on a sidewalk, plaza or in the road – typically in a curbside lane, replacing vehicle parking. A complex patio is a built structure that remains in place in the public realm while the business is closed.

Planning for access

Complex patios must be built to be durable yet allow easy removal within two working days. Modular elements and access hatches can be designed into these patios to allow for access to municipal or third-party infrastructure. There may be specific requirements for minimum clearance distances from your patio to adjacent features such as utility boxes, trees, artwork, public seating or other fixtures. If you are contemplating a patio on the roadway, please see Patios on the Roadway section of this document.

Perimeter, fencing and posts

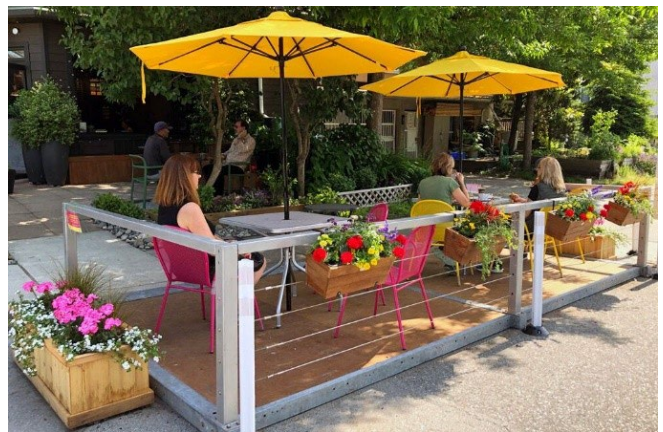
Complex patios will often include a perimeter fence to delineate the boundary of the patio area. Maximum fencing height is 1 m (39.4 in) with no more than 25 per cent of total wall space allowed to extend above 1 m (39.4 in) to a maximum of 1.5 m (59.1 in).

There are several options available for securing patio perimeter fencing. All securing methods must be pre-approved by the City and staff can advise on best practices for securing fencing to

asphalt and concrete surfaces. A Contractor's Permit is required when securing to a City surface. Information can be found on the City's website under **Land Development**.

Up to four vertical posts may be installed to support string lights or hanging baskets and must be:

- No bigger than 100 mm X 100 mm (4 in x 4 in)
- At least 2.4 m (7 ft 10.5 in) high to provide for string light vertical clearance requirements but no more than 3 m (9 ft 10 in).
- Securely fastened to the patio platform or perimeter fencing. They may not be floating in a pre-cast concrete block.



Above: Examples of complex patios with a perimeter fence.

Additional Information – All patios

Accessibility

Accessibility is a requirement in the City of Victoria's Outdoor Patio Program, regardless of type (simple or complex) or duration (seasonal or annual). Accessibility pertains to the space inside the patio area as well as the space around the patio area.

Mandatory elements

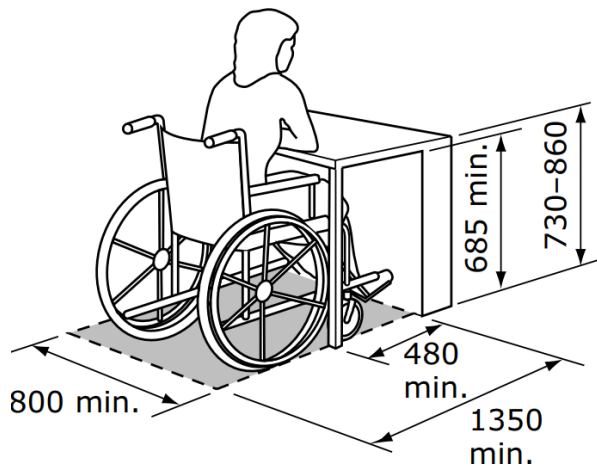
- Minimum 1.2 m (47.2 in) wide accessible entrance to the patio
 - Maximum slope of 1:20 (5%).
- Surface materials must be firm, stable and slip resistant. Hardened materials such as concrete, asphalt and wood are sufficiently firm and stable for accessibility.
- Cane detectable patio perimeter (textural contrast and detectable by a long cane)

- 1.1 m (43.3 in) wide clear path for people with mobility aids to turn around within the patio space.

Seating zone within the patio:

- Provide at least one wheelchair accessible seating zone with adequate maneuvering space to approach the table and an accessible dining area.
- The space around the table should have a level, firm ground surface extending a minimum of 1.2 m (47.2 in) on at least two sides of the table.
- The seating must:
 - Have a table height of 730 mm to 860 mm (28 in to 34 in)
 - Have at least 685 mm (27 in) of space from the floor to the bottom of the table
 - Provide knee clearance that extends at least 480 mm (19 in) under the table
 - Provide at least 800 mm (30 in) between table legs
 - Be located at least 1.22 m (4 ft) from the nearest obstruction
 - Have a label displaying the International Symbol of Accessibility

Note: Tables that have the support leg(s) in the centre of the table provide a higher level of accessibility.



Above: Accessible seating allowances. Source: **CSA Accessible Design for the Built Environment**

Optional elements

The City encourages other features that will create a welcoming and inclusive patio environment. Consider engaging with customers and employees who have lived experience or hire consultants with a disability service organization to understand how to be more inclusive to diverse accessibility needs.

- Provide additional seating zones where the configuration can be easily adjusted to accommodate a wheelchair.
- Providing contrasting surface colours and/or textures in the patio material to make it distinct and easy to identify.
- Where planters are utilized, consider low allergen species – consult the City’s **Low Allergen Landscape Planting Resource List**.
- Provide braille and/or large font menus.

Weather Protection

Umbrellas are permitted within the patio area to provide protection from the elements. Site plans should indicate their location within the patio footprint. The use of tents, pergolas or roof structures is not permitted.

- Bases of umbrellas must be weighted to limit movement.
- Umbrellas should be made of flame-resistant and fade-resistant material.
- Umbrellas are not to impede with City infrastructure, such as trees and lamp posts.

Signage

Signage indicating entrance, exit, accessible seating and business name are permitted. Third-party signage, including advertising and banners, is not allowed. Other previously approved City permits, such as portable signs, may require a re-assessment to determine their feasibility within the context of a patio application.

Lighting

Patio lighting can enhance the space while providing an additional safety feature for accessibility. Lighting levels should be low and directed into the patio area rather than out towards the street.

- Solar-powered or battery-powered lighting is recommended.
- One extension cord for powering lights is permitted and must be exterior rated and secured minimum 2.1 m (82.7 in) overhead. Cords cannot be placed at ground level across any sidewalks or boulevards.
- Overhead string lighting can be secured with detachable, minor posts (if feasible) within approved patio footprint and components.
- Hardwired electrical lighting is not permitted.
- Lighting within street trees is authorized through a Boulevard Tree Lighting Permit. For more information contact treepermits@victoria.ca

Heating

Outdoor heating devices can help extend the operating hours/season of an outdoor patio. If heaters are proposed, details must be included with the application's supporting documents (number of heaters, location(s), storage and fuel storage). The product manual must be submitted for fire safety assessment and a fire safety plan may be requested from the applicant. Businesses must be in compliance with the BC Gas Safety Regulation and relevant adopted standards.

All heating devices must meet the following guidelines:

- Designed for outdoor use and conform to safety standards established by the Canadian Standards Association (CSA) and certified by Underwriters Laboratories of Canada (ULC).
- Installed, used and maintained in conformance with the manufacturer's requirements.
- Kept at manufacturers specified distances from combustible surfaces.
- Have adequate ventilation and air flow.
- Stored outdoors.

Portable heating devices must be placed on a non-combustible, solid surface and cannot be located:

- On tables;
- Under umbrellas, awnings or trees/vegetation (minimum 2 m (78.8 in) clear space from any part of street trees);
- Under fire escapes;
- Within or adjacent to an exit;
- Near or attached to utilities or other street elements.

Propane tanks must be stored securely outdoors in a locked vented structure in compliance with the Propane Storage Handling Code.

- Business owners are to keep a maximum of one day's supply of propane on site.
- The maximum allowable propane tank size is a single 9 Kg (20lb) tank (approximately 10 hours of operation).
- Storing propane tanks indoors is not permitted under any circumstance.

Visit **www.propane.ca** for more information on storage, use and handling of propane tanks and heating appliances.

Green boulevards, trees and hanging baskets

The design, location and footprint of the patio must not adversely affect boulevard vegetation such as grass, plants or trees. No patios will be permitted on softscape boulevards.

City hanging baskets

In the warmer months, the City's hanging baskets will be watered seven days a week between the hours of 10 p.m. and 8 a.m. Adequate passage from the roadway for staff to access the hanging basket locations is required. Note that when baskets are watered, excess water and soil may wash out and impact anything below within 1.5 m (59 in) of basket.

Prohibited Activities for Plant and Tree protection

Any activities that can damage trees are prohibited. Operators, license holders and their staff are not permitted to alter City plants, planters and trees in any way including:

- Removing bird nests
- Pruning trees/branches
- Securing or tying anything to a tree or tree planter
- Installing lights in a tree without a permit
- Removing soil from a tree planter
- Adding plants, mulch, stones or any material into a tree planter
- Covering or storing materials on the tree planter or soil surface
- Painting a planter
- Allowing patrons to damage trees with furniture
- Attempting to treat or control insects, pests or diseases on City trees
- Dumping any liquids into the soil or a tree planter, grate or rock dust surrounding a tree

Note: Some trees, particularly Hornbeams and Oaks, can be occupied by aphids at any given time. These bugs secrete a sugary substance that will cover tables, chairs and anything else left under the tree canopy or where the wind may blow the secretion. City staff release biological controls (ladybird beetles) once per season to lessen the impacts. The City is not able to further mitigate infestations or clear off this residue.

Prohibited Patio Elements

- Enclosed patios (consisting of walls and non-retractable roofs)
- Patios located on softscaped boulevards
- Open fires or cooking
- Live or amplified music
- Audio/Visual Equipment (televisions, radios etc.)
- Third-party signage, advertising or banners
- Structure of a size and/or scope that would require a building or electrical permit

Patios on the Roadway

Any proposed patio location within the roadway will undergo a transportation safety review to determine feasibility and technical design requirements. Eligible areas include parallel or angled street parking on the immediate frontage of the applicant's business, which may be metered, time-limited or unrestricted.

On-street location details

The City will not typically entertain applications for patios in Accessible Parking stalls or in No Stopping/Parking, Commercial Loading, Transit or Passenger zones.

Visibility to intersections, crosswalks, bicycle lanes, traffic signals and driveways are key considerations; similar to patios on a sidewalk, there may be minimum setbacks from these features to an outdoor patio. In locations with higher vehicle speeds and traffic volumes, patios may require a greater degree of separation between the patio area and adjacent vehicle lane.

Visibility

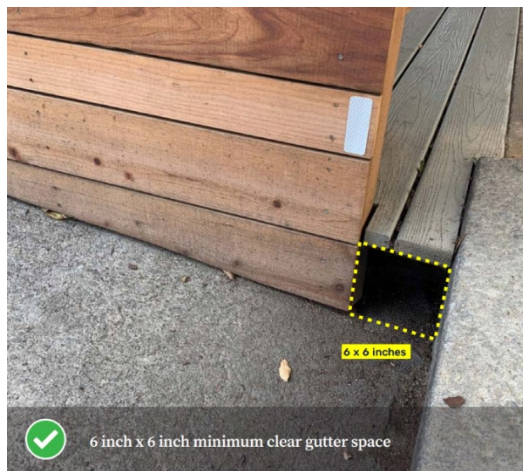
Patios on roadways should be highly visible to other users during the day and night. The patio edges and/or corners should be marked with reflective hazard signage, high intensity retro-reflective tape or reflectors to be visible to drivers at night.

Grade of structure

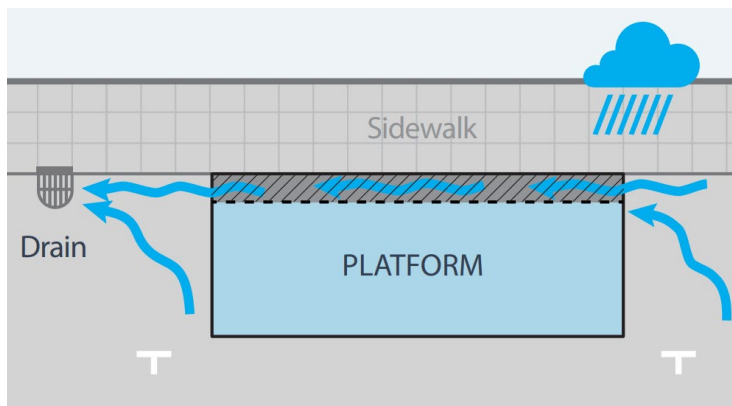
If a removable deck or platform structure is proposed, it must meet all accessibility objectives and be easily removable within two days. The cross slope on the structure shall not exceed 2 per cent in any direction. If proposed on a street with a grade greater than 5 per cent, there may be additional requirements to make the space accessible to the maximum extent possible.

Drainage

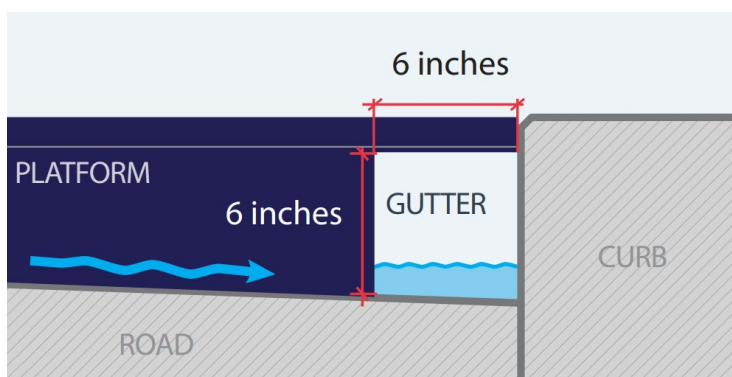
All structures or platforms require a clear gutter space between the patio structure and edge of sidewalk to accommodate rainwater flow and allow for regular cleaning to prevent blockages. Modular structures and access hatches can help to facilitate access to municipal and third-party utilities.



Left: Picture of minimum clear gutter space for an on-street patio (150 mm X 150 mm)



Left: View from above (plan view) of water flow through clear gutter space under patio structure.



Left: View from side elevation, 150 mm X 150 mm clear gutter space to allow rainwater flow.