



Policy

Section: 5.0 General

Policy: Sidewalk Policy

By-Law: 2019-86

Date: 17 June 2019

Revision: [Click here to enter text.](#)

Coverage:

This policy shall cover sidewalks in the Township of Huron-Kinloss

Policy Statement:

To establish a policy to allow for the encroachment of patios, cafés, benches, trees, planters, bike racks, bike repair stations, signage or other décor items or activities

In order to erect, install or maintain décor items, bike racks, bike repair stations a sidewalk café or patio or other activity on the sidewalk, a valid sidewalk agreement must be entered into with the Township of Huron-Kinloss in accordance with this policy.

Council understands and is committed to the beautification and enhancement of our commercial areas. Décor Items and Sidewalk patios/cafés on the sidewalks provide an opportunity for downtown businesses to extend activities and create an atmosphere downtown that people want to spend time in. A sidewalk café or patio, when designed and facilitated appropriately, can make a significant contribution to the downtown community.

Legislative Authority:

Municipal Act, 2001, S.O. c. 25 as amended, Sections 11(3) and 27(1), gives lower tier municipalities the power to pass by-laws within the sphere of jurisdiction dealing with highways; including parking and traffic;

Contents:

Definitions:

Sidewalk Café or Café: means a group of tables and chairs and other accessories situated and maintained upon a public sidewalk, parking space or municipally owned property for the use and consumption of food and beverages sold to the public from, or in an adjoining or adjacent indoor food and beverage establishment.

Sidewalk Patio or Patio: means a group of tables and chairs and other accessories situated and maintained upon a public sidewalk, parking space or municipally owned property for the use and consumption of food and beverages including alcoholic beverages sold to the public from, or in, an adjoining or adjacent indoor food and beverage establishment located adjacent to the business.

Bike Repair Station: means an area devoted to providing minor repairs to a bicycle. The bike repair station will provide an area where the bicycle can be mounted for the duration of the repair. The station will provide the necessary tools for the repair.

Bike Rack: means an area where a cyclist can park a bicycle for an extended period of time. The design or the rack can vary and the number of bicycle parking stations can also vary by design.

Signage: means any permanent or removable sign being erected by the applicant that encroaches over the sidewalk. For example, a perpendicular sign.

Décor Items: means any removable item that is placed on the sidewalk for aesthetic purposes. This can include but is not limited to; planters, benches, trees, art pieces, etc.

Township: Refers to the Township of Huron-Kinloss as a governing body.

Certificate of Insurance (COI): a COI is issued by an insurance company or broker. The COI verifies the existence of an insurance policy and summarizes the key aspects and conditions of the policy. For example, a standard COI lists the policyholder's name, policy effective date, the type of coverage, policy limits, and other important details of the policy.

Commercial General Liability Insurance: liability coverage for bodily injury and/or property damage claims brought against the insured by a third party or member of the public.

Liquor Liability Insurance: Liability coverage for claims arising out of the sale, manufacture or serving of alcoholic beverages. Under standard Commercial General Liability policies, coverage is excluded if the insured is in the business of serving alcohol. If selling, serving or making alcohol, liquor liability coverage needs to be ADDED to the existing general liability policy or purchased on its own.

General Provisions:

1. Any person who wishes to erect, install, and/or maintain any décor item or activity on Township owned or Township maintained lands, shall be required to submit an application to the Township seeking permission to do so, together with drawings or plans sufficient to describe the encroachment, to the Township's satisfaction.
2. The Township shall review the application to ensure the erection, installation, maintenance of the encroachment on, or encroachment onto Township owned lands, does not or will not:
 - a. Interfere with the Township's intent and purpose in holding the Township owned land.
 - b. Create an unsafe condition,
 - c. Create liabilities for which the Township cannot assign full responsibility to the owner of said encroachment.

- d. Create a situation that is contrary to any Township By-Law, Township Policy or Resolution, or any Provincial or Federal regulation or legislation;
 - e. Interfere with work, plans, efforts, or initiatives of the Township to maintain Township owned lands;
 - f. Interfere with any utility or other similar installation located on Township owned lands; or
 - g. The applicant is unable to reasonably demonstrate a need for the encroachment.
3. Décor Items, bike racks, bike repair stations, signage, sidewalk cafés or sidewalk patios and other activities shall only be approved if their location and construction maintains a safe, secure and comfortable sidewalk environment for all pedestrians.
 4. Décor Items, bike racks, bike repair stations, signage, sidewalk cafés or sidewalk patios and other activities cannot significantly obstruct on-street parking and shall comply with O.Reg. 413/12 regarding maintenance of parking access aisles, and other necessary delivery access to private and public buildings
 5. Encroachment agreements may impose specific conditions in the agreement to address concerns identified by the Township.
 6. In the event that locates are required, it is the responsibility of the applicant to make the necessary arrangements and pay the associated fee.
 7. Encroachment agreements shall be for a perpetual term. All encroachment agreements shall be terminable by the Township/or applicant upon ten (10) days written notice. Encroachment agreements cannot be assigned or transferred.
 8. The Permit Holder shall to the fullest extent permitted by law, hold harmless, defend at its own expense, and indemnify the Township of Huron-Kinloss, its officers, employees, agents, and volunteers, (the Township) against any and all liability, claims, losses, damages, or expenses, including reasonable attorney's fees, arising from all acts or omissions of the Permit Holder or its officers, agents, or employees by reason of, resulting from, or otherwise related to, either directly or indirectly, the presence or operation of the sidewalk encroachment; excluding, however, such liability, claims, losses, damages, or expenses arising from the Township's sole negligence or willful acts
 9. The Permit Holder must have Commercial General Liability Insurance including but not limited to bodily injury including death, personal injury, property damage, tenants legal liability and cross-liability/severability of interest provisions in the amount of Two Million Dollars (\$2,000,000.00) per occurrence with a property damage deductible not to exceed \$1,000 or as agreed to by Permit Holder and name The Corporation of the Township of Huron-Kinloss as an Additional Insured.
 10. Applications proposing the use of outdoor heating device(s) may be required to have a higher amount of Commercial General Liability Insurance. The presence of heating devices/systems may present additional risk factors. The additional coverage amount will be determined on a case-by-case basis that takes into account the nature of the proposed heating devices/systems and its proposed location.

- Applications proposing the use of outdoor heating devices must have stated on their COI that outdoor heating devices and any damages arising there from are included under the policy coverage.
11. The Commercial General Liability Policy shall contain an endorsement to provide the Township of Huron-Kinloss with (30) days prior written notice of cancellation
 12. The agreement holder shall furnish the Township with a certified copy of the aforementioned insurance policy or an insurance policy or an insurance certificate in a form acceptable to the Township prior to commencement of this agreement. The certificate shall be mailed, faxed, emailed or dropped off to the Clerk's Department.
 13. Liquor Liability Insurance. Any Permit Holder involved in the sale or furnishing of alcoholic beverages shall also maintain Liquor Liability Insurance with a minimum per occurrence limit of not less than Two Million Dollars (\$2,000,000.00) per occurrence. The Corporation of the Township of Huron-Kinloss shall be named as Additional Insured on the Liquor Liability Insurance policy.
 14. The Liquor Liability Insurance Policy, if required, shall contain an endorsement to provide the Township of Huron-Kinloss with (30) days prior written notice of cancellation.
 15. All insurance policies/coverage shall contain a Cross Liability and Severability of Interest clauses.
 16. The applicant shall maintain the required insurance coverage during the term of the Permit. The Township of Huron-Kinloss may cancel a Permit for failure to maintain or provide the required insurance coverage.
 17. The Township reserves the right to register the encroachment agreement on title of the property if deemed appropriate to do so; this will be determined on a case by case basis.

Special Conditions

1. Where the Décor Items, bike racks, bike repair stations, signage, sidewalk cafés or sidewalk patios and other activities, take place on County of Bruce owned lands, the applicant will apply for an encroachment agreement through the County of Bruce. The County of Bruce will work with the Township of Huron-Kinloss to ensure the application and drawings meet the Township of Huron-Kinloss Sidewalk Policy.
2. When an application is received by the County of Bruce, it will be forwarded to the Township for review. If the application meets the specifications of this policy, the Township will recommend approval to the County of Bruce representatives. If the application does not meet the Townships requirements, a list of conditions for approval will be sent to the County of Bruce.
3. The County of Bruce will contact the applicant with the approval or the conditions or approval.

Sidewalk Patio and Sidewalk Café Conditions

1. No person shall establish a Sidewalk Café or Sidewalk Patio unless an encroachment agreement has been entered into with the Township.
2. The operator of a Sidewalk Café or Sidewalk Patio shall apply for and obtain permission through the execution of an encroachment agreement, prior to the installation of fencing and/or furnishings.
3. Sidewalk Café or Sidewalk Patio furnishings, fences and other improvements must be removable and not permanently fixed in place. All objects must be contained within the approved Sidewalk Café or Sidewalk Patio area and removed during the off-season or after the Sidewalk Café or Sidewalk Patio ceases operation. The street, sidewalk and Township owned lands must be restored to its original condition to the satisfaction of the Township.
4. All Sidewalk Cafés and Sidewalk Patios must comply with applicable Smoking Legislation and all other Federal, Provincial and Municipal Laws.
5. Music or other entertainment provided for patrons of a Sidewalk Café or Sidewalk Patio shall not be amplified or create a nuisance to abutting property owners. The Township reserves the right to revoke agreements, without reimbursement of fees, where this nuisance occurs. Nuisance may include, but shall not be limited to, police reports of loud, boisterous or unreasonable noise, offensive language or other disruptive behaviour.
6. The Township and all public utility agencies retain the right of access to the approved Sidewalk Café or Sidewalk Patio areas for the installation, maintenance and repair of pipes, cables, wires, poles, hydrants, etc. as necessary. In case of emergency, no notice will be given. For scheduled work, a minimum notice of forty-eight (48) hours will normally be given. The Sidewalk Café or Sidewalk Patio improvements shall be removed and reinstalled upon completion of the work required.

Sidewalk Patio and Sidewalk Café Requirements

1. Information Requirements
The applicant shall submit a site plan illustrating the proposed location and placement of planters, tables, chairs, fences and all other accessories to be included within the defined patio space which includes the patio building envelope and any utility poles, trees, bike racks, benches, hydrants, parking metres, shelters, manholes, traffic signs, catch basins, awnings and any other physical or drainage features of the street within 6 metres (19.7 ft) of any public utility that may be affected by the development.
2. Design
The design of the Sidewalk Café or Sidewalk Patio shall be consistent with the character of the building, for which it serves as an accessory use, and the design guidelines for the Township of Huron-Kinloss shall be considered shall be

considered in review of applications. Café and Patio aesthetics shall conform with the Township's community toolkits and façade improvement guidelines.

3. Location:

Patios that extend from the building façade shall not encroach more than 2 metres (8.2 ft) from the building, except where decking is provided, to ensure that a minimum 1.5 metre unobstructed pedestrian corridor is maintained. The unobstructed pedestrian corridor does not include the utility strip/boulevard area.

4. Fencing:

Fencing of a Sidewalk Patio that sells alcoholic beverages, must form a fully enclosed perimeter. Fencing shall conform with Township established façade improvement guidelines.

The fencing requirements are as follows and must be in compliance with the Alcohol and Gaming Commission of Ontario:

- a. The minimum height for fencing is 1.1 metres (42 inches) to a maximum of 1.2 metres (48 inches);
- b. Fencing shall be supported by metal foot plates and shall not be designed to penetrate the surface of the sidewalks (ie. No bolts/brackets) except as authorized by Public Works unless alternative supports are approved by the Township such as planters, weights, etc.;
- c. Fencing should be of solid construction and be designed for easy removal from the site;
- d. Fencing located within 6 metres (20 ft) of the intersection shall not obstruct the vehicular view angles as determined by the Township;
- e. Fencing to be removed by October 31st of each year to allow for sidewalk maintenance and snow clearing.

5. Umbrellas:

Umbrellas shall be located entirely within the approved Sidewalk Café or Patio fence area.

6. Waste and Storage:

Sidewalk Café and Sidewalk Patio operators shall maintain the Sidewalk Café or Patio area; and the immediately adjacent area, in a clean and safe working condition at all times. Refuse containers are not allowed within the Sidewalk Café or Patio area. The storage of waste is not allowed.

7. Access:

A Sidewalk Café or Sidewalk Patio operator shall maintain a minimum width of 1.1 metres (42 inches) of unobstructed entrance to a Sidewalk Café or Sidewalk Patio. Barrier free access shall be maintained.

8. Lighting:

Lighting of a Sidewalk Café or Sidewalk Patio shall be approved provided all lighting is task oriented and will not spill onto abutting properties or interfere with the vehicular traffic travel lanes. All lighting shall be contained within the patio area.

9. Signs & Advertising:

No signs or advertising with a Sidewalk Café or Sidewalk Patio shall be approved with the exception of a menu and no smoking/no vaping sign(s).

10. Sidewalk Patio Furnishings:

All tables, chairs and decorative accessories in a Sidewalk Café or Sidewalk Patio should be constructed using weather resistant materials. Any bar unit, service cart or server's work station shall be portable and shall not be permanently attached to the wall of the facing building or the fencing. All furnishings and equipment with the exception of umbrellas shall not exceed the height of the fence. If furnishings are to be anchored to the sidewalk, the Township shall approve how the furnishings are anchored.

11. Season:

The months of operation shall be April 1st through October 31st unless otherwise approved.

12. Propane Heaters:

Propane heaters are allowed in a Sidewalk Café or Sidewalk Patio provided they are installed and operated in accordance with the manufacturer's instructions.

13. Site Visibility Triangle:

Where Sidewalk Cafés or Sidewalk Patios are located in proximity to intersections, staff will review the proposal to ensure that vehicular and pedestrian safety is maintained. Patios may require alterations to ensure safety.

14. Hours of Operation:

Sidewalk Cafés and/or Sidewalk Patios must be closed no later than 11PM. Special consideration may be given to extend the hours of operation with a noise by-law exemption request to Council.

Bike Rack and Repair Station Conditions

1. No person shall erect a bike rack or a bike repair station unless an encroachment agreement has been entered into with the Township.
2. Bike racks and repair stations must be removable and not permanently fixed in place. All objects must be contained within the approved bike rack or repair station area and removed during the off-season. The street, sidewalk and Township owned lands must be restored to its original condition to the satisfaction of the Township.
3. The Township and all public utility agencies retain the right of access to the approved bike rack or repair station areas for the installation, maintenance and repair of pipes, cables, wires, poles, hydrants, etc. as necessary. In case of emergency, no notice will be given. For scheduled work, a minimum notice of forty-eight (48) hours will normally be given. The bike rack or repair station shall be removed and reinstalled among completion of the work required.
4. All tools, cables, etc. that make up the bike repair station will be removed each evening and kept inside or with the agreement holder. The Township will not be held responsible for any lost, stolen or damaged tools, cables or other elements of the bike racks or repair stations.

Bike Rack and Repair Station Requirements:

1. Information Requirements

The applicant shall submit a site plan illustrating the proposed location and placement of the bike rack and/or bike repair station which includes any utility poles, trees, benches, hydrants, parking metres, shelters, manholes, traffic signs, catch basins, awnings and any other physical or drainage features of the street within 6 metres (19.7 ft) of any public utility that may be affected by the development.

2. Location:

Bike racks and/or repair stations shall not encroach more than 1.5 metre (8.2 ft) from the building, except where a bicycle is parked in the bike rack or repair station, at this time a maximum encroachment of 1.5m is acceptable to ensure a minimum 1.5 metre unobstructed pedestrian corridor is maintained. The unobstructed pedestrian corridor does not include the utility strip/boulevard area.

3. Season:

The months of operation shall be April 1st through October 31st unless otherwise approved

Planters, Benches and Other Décor Item Conditions:

1. No person shall erect planters, benches or other décor items on the sidewalk unless an encroachment agreement has been entered into with the Township.
2. All Décor Items must be removable and not permanently fixed in place. All objects must be contained within the approved area and removed during the off-season. The street, sidewalk and Township owned lands must be restored to its original condition to the satisfaction of the Township.
3. The Township and all public utility agencies retain the right of access to the approved area for the installation, maintenance and repair of pipes, cables, wires, poles, hydrants, etc. as necessary. In case of emergency, no notice will be given. For scheduled work, a minimum notice of forty-eight (48) hours will normally be given. The décor items shall be removed and reinstalled among completion of the work required.

Planters, Benches and Other Décor Item Requirements:

1. Information Requirements

The applicant shall submit a site plan illustrating the proposed location and placement of the décor items which includes any utility poles, trees, benches, hydrants, parking metres, shelters, manholes, traffic signs, catch basins, awnings and any other physical or drainage features of the street within 6 metres (19.7 ft) of any public utility that may be affected by the development.

2. Location:

Décor Items shall not encroach more than 1 metre (8.2 ft) from the building, a minimum 1.5 metre unobstructed pedestrian corridor is maintained. The unobstructed pedestrian corridor does not include the utility strip/boulevard area.

3. Season:

The months of operation shall be April 1st through October 31st unless otherwise approved.

Signage Conditions and Requirements

1. Information Requirements

The applicant shall submit a site plan illustrating the proposed location and placement of the signage which includes the measurements of the sign and the height at the base of the sign after installation.

2. Design

The sign shall comply with the signage guidelines provided by the Township of Huron-Kinloss.

3. Location

The Township will be provided an opportunity to inspect the sign after installation to ensure it meets the minimum installation requirements as noted in the signage guidelines.

Temporary Accessible Ramps

1. Information Requirements

The applicant shall submit a site plan illustrating the proposed location and placement of the temporary accessible ramp which includes the measurements of the length of the ramp encroaching onto Township owned or maintained property, the height of the ramp at various points, and the plan for removal and installation.

2. Design

The temporary accessible ramp should be designed in such a way that does not create slip, trip or fall hazard for the general public or staff of the establishment.

3. Access

The temporary accessible ramp shall be removed nightly and should not be installed when not in use to avoid tripping hazards for the other users of the public sidewalk.

4. AODA Requirements

The temporary accessible ramp should meet all the requirements for accessible ramps as outlined in the Accessibility for Ontarians with Disabilities Act, 2005 including the proper length, degree of incline and placement.

Inspection

To ensure compliance, the Chief Building Official or designate will inspect the associated features as approved in the application. If found to be non-compliant, the features will need to be removed.