

THE CORPORATION OF THE MUNICIPALITY OF BLUEWATER

BY-LAW NUMBER 69 - 2020

Being a By-law to suspend certain provisions of By-law 126 -2019 and
By-law 136-2019 until November 15, 2020

WHEREAS Council of the Corporation of the Municipality of Bluewater wishes to support Bluewater restaurant businesses during the time of the Covid-19 pandemic and the requirement for physical distancing restrictions; and

WHEREAS policies regulating encroachments are set out in Schedule "A" to By-law Number 126 - 2019, Being a By-law to adopt an Encroachment Policy and Procedure for Municipal Highways and Municipal Public Lands ("Encroachment Policy"); and

WHEREAS Policies regulating Patios are set out in Schedule "A" to Schedule "A" of By-law Number 126-2019 ("Patio Policy"); and

WHEREAS By-law Number 136-2019, Being a By-law to provide for various Fees & Charges and to repeal By-law Number 75-2018 "Being a By-law to provide for various Fees & Charges" sets out Encroachment Application fees;

AND WHEREAS Council wishes to suspend the Patio Policy and Patio Application Fee So that Bluewater restaurant businesses may adapt to physical distancing restrictions;

NOW THEREFORE The Council of the Corporation of the Municipality of Bluewater enacts as follows:

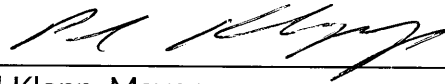
1. THAT "Patio" means a Commercial Patio or Sidewalk Café that encroaches onto a Municipal Highway that is not a permanent building or structure but primarily consists of tables, chair or other furniture established or used for the purpose of a serving area for a restaurant or tavern (definition in the Encroachment Policy);
2. THAT page 6 of the Encroachment Policy is amended as follows: "Commercial Patios and Sidewalk Cafés are subject to regulations set out in Schedule "A" attached, which forms part of this Policy" is deleted and the following regulation inserted: "Commercial Patios and Sidewalk Cafés are subject to restrictions set out in Schedule "A" to By-law Number 69 - 2020";
3. THAT Schedule "A" to the Encroachment Policy is hereby suspended;
4. THAT Schedule "A" attached to this By-law shall regulate Patios in the

Municipality;

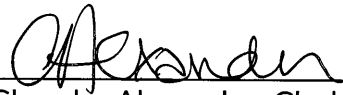
5. THAT the Patio/Café Permit Fee as shown in Schedule "A" to By-law Number 136-2019 does not apply;
6. THAT this By-law shall come into effect on June 8, 2020.
7. THAT this By-law shall expire on November 15, 2020.

By-law read a first and second time this 8th day of June, 2020.

By-law read a third time and finally passed this 8th day of June, 2020.



Paul Klopp, Mayor



Chandra Alexander, Clerk

SCHEDULE "A" to By-law Number 69 -2020

The Municipality of Bluewater acknowledges that the culture of dining and drinking on patios in the open air during fair weather is popular. Well-designed patios located in front or to the side of a business can contribute to the life of a street, provide a vibrant and attractive pedestrian environment and contribute to the success of commercial areas while maintaining pedestrian flow and safety standards.

Outdoor Commercial Patios and Sidewalk Cafés (Patios) need to be safe for customers, providing an accessible path of travel. All Patios require a Patio/Café Permit.

The Manager of Public Works is authorized to issue a Patio/Café Permit to operate a Patio.

The following types of installations are contemplated in this Policy.

Patio – from property line up to and/or across a portion of the sidewalk subject to the regulations.

Patio Conditions:

1. Fencing, when not occupying a parking space:
 - 1.1 Patios must be enclosed by a fence which shall have a minimum height of 1.1 m (3.5 ft.) and a maximum height of 1.2 m (4 ft.) high above grade.
 - 1.2 Patio fences must be secure but may not be fixed by bolts that penetrate the sidewalk or boulevard surface. The fence must be easily and immediately removable for emergency or operational needs.
 - 1.3 Fences must have an opening to provide access to the patio and access to the main entrance of the business which shall be a minimum of 1.5 m (5 ft.) wide.
 - 1.4 Fences must be completely removed and stored off-site before the permit is issued and immediately following the expiration of the permit.
 - 1.5 Fencing within 6 m (20 ft.) of an intersection shall not obstruct the vehicular sight lines to the satisfaction of the Manager of Public Works.

Sidewalk Café – single row, tables and chairs up against the building face or other structure at the property line.

Sidewalk Café Conditions:

1. Reserved.
2. The Café cannot be enclosed by any railing or fencing.
3. Alcohol shall not be served or taken into or onto the Sidewalk Café by guests for consumption.
4. Tables, chairs, umbrellas and any moveable structures such as heaters placed in the Café area must be able to be taken in at the end of each business day and stored within the building but must not block access to exits.

Patio and Sidewalk Café Regulations:

1. Any Owner or authorized business operator/tenant ("Applicant") of a commercial property within a Core Commercial Zone may install and operate a Patio along or in a Municipal Highway subject to an application and issuance of a Patio/Café Permit by the Manager of Public Works.
2. The Patio must be installed and operated by the Applicant. A Patio/Café Permit shall not be transferred or assigned by the applicant in any manner whatsoever.
3. Patio/Café Permits will be restricted to eating and drinking establishments located on the ground floor of the abutting building. Only food and beverages prepared and served from the abutting eating establishment are permitted. No outdoor food preparation or service facilities are permitted within the encroaching Patio area. Patios must ensure the Permitted area is in compliance with the Alcohol and Gaming Commission of Ontario (AGCO) requirements and all other applicable law.
4. The area of any Patio may exceed the interior floor area of the abutting restaurant and may not extend onto the adjacent business frontage.
5. The Permitted area may not be used for any other use such as parking, advertising, signs etc.
6. If a Patio/Café is to be located within 25 m (80 ft.) of a residence on a property zoned Residential, live or amplified music is not permitted.
7. A Patio/Café Permit may be used during the period April 1st to November 15th.
8. The Patio may be operated during the regular and usual times the business is open.

9. Patios do not permit smoking as per the Huron County Smoke Free By-law.
10. Commercial grade heating devices are allowed in the Permitted area, operated in accordance with the manufacturer's specifications.
11. Where a sidewalk is not hard surfaced, the Applicant is required to install or improve the Permitted area to a hard, level surface to the satisfaction of the Manager of Public Works.
12. Live or amplified music is permitted according to the requirements of the Noise By-law as long as the Patio/Café is not within 25 m (80 ft.) of a residence on a property zoned Residential
13. The Applicant must permit the Municipality or any public utility to enter the Patio to install, maintain, repair pipes, cables, wires, poles or other installations. A minimum notice of 48 hours will normally be given but in case of emergency no notice will be given. The cost of the removal and replacement of Patio items is the responsibility of the Applicant. Emergency vehicle access is required at all times.
14. Where an Applicant fails to comply with the terms, conditions and regulations of a Permit or this Policy, the Manager of Public Works or their designate may require the Applicant to remove the Patio and cease the encroachment. If the Applicant fails to comply with a request within 24 hours of notification the Encroachment Removal policy applies.
15. Where a property is designated under the *Ontario Heritage Act* either through Part IV or Part V Heritage Approval is required prior to approval from the Manager of Public Works.
16. Patios will not be permitted in locations which in the opinion of the Manager of Public Works, at their discretion, obstruct sight lines at intersections, cause any operational issues or create any safety hazard to the public and/or patrons.
17. The following regulations must be achieved in order for a Patio/Café Permit to be issued under this Policy. These standards shall be maintained by the applicant during the period of the Permit.

Patio or Café/Permitted area siting:

- 17.1 1.5 m (5 ft.) of sidewalk must be free for pedestrian access.
- 17.2 The Permitted area must maintain a minimum of 1.5 m (5 ft.) clear path to the entrance of the restaurant.
- 17.3 The Permitted area must be setback a minimum of 1.5 m (5 ft.) from a fire hydrant.

- 17.4 Patios/Cafes are not permitted near commercial loading zones or pedestrian crossing areas.
18. Landscaping, Shade Structures:
- 18.1 Umbrellas or awnings located within the Permitted area must provide a minimum vertical clearance of 2.0 m (6 ft.) above grade.
- 18.2 No items relating to a Patio may be affixed to a tree.
- 18.3 Applicants are encouraged to provide planters, flower boxes or other landscaping features within the Permitted area.
19. Lighting and Signage:
- 19.1 Lighting should be designed to contribute to the appearance and ambiance of the Patio as well as provide safety.
- 19.2 Overhead lighting must comply with darksky.org standards.
- 19.3 Power cables should not extend on or over the pedestrian path to avoid creating tripping hazards.
- 19.4 The proprietary logo, signature or name of the restaurant may appear on awnings and umbrellas. General advertising including banner signs are not allowed within the Permitted area or on fences. All signage must comply with the sign by-law.
20. Maintenance:
Applicants, during the Permit period must ensure that all patio furniture is neatly stacked and/or safely secured after the business closing time each evening. The Patio must be kept in a safe, tidy and clean condition at all times including the removal of any graffiti or posters. Trash must be removed. The condition of the Patio items such as fencing, umbrellas, tables and chairs must be maintained or repaired as necessary.
21. Application for a Permit:
- 21.1 The Applicant should submit an application at least four (4) weeks prior to the proposed date for the installation of the Patio.
- 21.2 The Applicant must submit a complete application which is comprised of an application request, a site plan of the proposed Patio with all the elements illustrated in the attached Sample Patio Plan, the application fee and the required Insurance Certificate. If an application is incomplete, it will not be reviewed until all the required documentation is supplied.

22. A complete application that is in compliance with all the terms of this Policy will be approved by the Manager of Public Works subject to the requirements in this Schedule. Upon approval, the Manager of Public Works will issue a Patio Permit.
23. A Certificate of Insurance must be provided prior to receiving approval for any encroachment agreement. The form of the Certificate shall be approved by the Manager of Public Works. The amount of comprehensive general liability insurance will be established annually as recommended by the Municipalities insurance provider. The Corporation of the Municipality of Bluewater shall be an additional insured. The policy is to include non-owned automobile liability, personal injury, broad form property damage, contractual liability, owners and contractor's protective, completed operations, contingent employers' liability, cross liability and severability of interest clauses. The policy will not be cancelled or permitted to lapse unless the insurer notifies the Municipality in writing at least thirty (30) days prior to the date of cancellation or exp

Patios may occupy parking spaces with the additional following provisions:

- 1.1 More than one parking space is permitted to be occupied.
- 1.2 The parking spaces are directly in front of the business occupying the parking spaces and shall not extend into the adjacent business frontage nor block a laneway.
- 1.3 The outside edge of the patio must be at least 1.5m from the travel lane, creating a 1.5m clear zone, or otherwise approved by the Manager of Public Works.
- 1.4 At each end of the parking space, wheel stops must be placed 1.2 m from the edge of patio to provide a buffer from the next parking stall.
- 1.5 Patios must have flexible reflective posts, at least 1.2m high, placed 0.5 m from both corners of the patio which are in the roadway. The reflective elements should be in line with the edge of the patio that is parallel to the travel lane.
- 1.6 Guardrails must be present on at least the three sides of a patio within the roadway and be constructed to the following specifications: Guardrails must be not less than 1.07m high.
- 1.7 Guardrails must be designed and attached in a manner to resist a concentrated load at any point of not less than 1 kN.
- 1.8 Guardrail must be designed and attached in a manner to resist a uniformly distributed load of 0.75 kN/m.

- 1.9 Open guardrails are encouraged to reduce the risk of high winds using the guardrail to move the patio structure. Openings through the guardrail shall be of a size that will prevent the passage of a spherical object having a diameter of 100mm.

Below is a sample illustration of a Patio/Café occupying a parking space:

