

THE CORPORATION OF THE TOWN OF DEEP RIVER

BY-LAW NUMBER 19-2023

A BY-LAW TO AMEND BY-LAW 01-2022 - CORPORATE POLICIES AND PROCEDURES MANUAL TO INCLUDE POLICY A-003, A POLICY TO REGULATE OUTDOOR COMMERCIAL PATIOS IN THE TOWN OF DEEP RIVER.

WHEREAS Council adopted By-Law Number 01-2022 on January 12, 2022 to approve the Corporate Policies and Procedures Manual for the Corporation of the Town of Deep River;


AND WHEREAS Council deems it necessary and expedient to amend the Corporate Policies and Procedures Manual from time to time to meet changing requirements as policies are added, removed, or amended,

AND WHEREAS Council of the Corporation of the Town of Deep River deems it expedient to amend the Corporate Policies and Procedures Manual to include a Policy to regulate Outdoor Commercial Patios in the Town of Deep River;

NOW THEREFORE BE IT RESOLVED THAT the Council of the Corporation of the Town of Deep River enacts as follows:

1. THAT the Corporate Policies and Procedures Manual is hereby amended to include Policy Number A-003, a Policy to Regulate Outdoor Commercial Patios.
2. THAT this By-Law shall take effect and come into force upon final passing thereof.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 10TH DAY OF MAY, 2023.


Suzanne D'Eon, Mayor


Jackie Mellon, Clerk

**Town of Deep River
POLICY / PROCEDURE MANUAL**

Corporate Policies and Procedures				
DEPARTMENT: Administration				POLICY NO.: A-003
POLICY: Outdoor Commercial Use Patio Policy				
DATE OF ORIGIN: May 10 th , 2023	REVIEW DATE:	REVISION DATE:	APPLICABLE TO: Council and All Employees	PAGE #: 1 to 8

POLICY

The Town considers the establishment of outdoor commercial patios on a seasonal basis to be advantageous to the vitality of the downtown core. The Town has developed a streamlined application process and set of minimum standards for outdoor commercial patios to support and encourage private investment.

This policy describes the process for application, review and approval of the installation and use of temporary outdoor facilities by Liquor Sales License holders, and for the use of public, Town-owned sidewalks and on-street parking spaces for commercial or institutional purposes such as retail displays, patios, and parklets.

DEFINITIONS

Applicant shall mean a building or property owner or authorized agent of the building or property, and could include a tenant of a building or property acting as an authorized agent for the owner who has submitted an application for an Outdoor Patio.

CAO shall mean the Chief Administrative Officer of the Town appointed in accordance with Section 229 of the Municipal Act, 2000, as amended, or their designate.

Council shall mean the Council of the Corporation of the Town of Deep River.

Eligible Business shall mean any commercial operation, including retail, dining, and other businesses located within the commercially zoned *C1 – Town Centre 1* area of the municipality only, or where approved by Council.

Licensed Establishment or Licensee shall mean a business licensed by the *Alcohol and Gaming Commission of Ontario* to sell and serve alcohol on its premises.

Loading Zone shall mean part of a highway designated by an official sign, where a vehicle may be stopped for the purpose of loading or unloading materials

On-Street Parking shall mean any space within a highway that is intended for a vehicle to park.

Outdoor Commercial Use means the commercial or institutional use of private property, a portion of a sidewalk, or on-street parking space, that is adjacent to a building zoned for commercial or institutional use.

Owner shall mean the current owner(s) of an eligible business.

Outdoor Patio shall mean a clearly delineated area designed for the use and consumption of food and beverages, for the sale of retail items from an adjacent business, or for general passive use by pedestrians. An Outdoor Patio may herein be referred to as a "Patio". Outdoor Patio may include any of the following:

Outdoor Patio, Licensed refers to an outdoor area where tables and seating is provided together with serving meals and refreshments in proximity to a restaurant or bar. The serving and consumption of alcohol will be permitted on the outdoor patio as the establishment will be licensed by the Alcohol and Gaming Commission of Ontario (AGCO). Fencing or some type of wall or partition is required by the AGCO for patio areas that will be associated with liquor.

Outdoor Patio, Unlicensed refers to a less formal outdoor area where seating and tables are provided; with refreshments and meals being served in close proximity to a restaurant. The serving and consumption of alcohol would not be permitted on these types of patios.

Sidewalk Café refers to the use of a single row, tables, chairs and/or benches up against the building face, intended but not limited to use by Coffee Shops, Bakeries, Delis, and confectionary stores.

Parklet refers to public seating platforms that convert curbside parking spaces into community spaces. Parklets often incorporate seating, greenery, and/or bike racks.

Public Highway includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, rear laneway, viaduct, or trestle, any part of which is used or intended for use by the general public for the passage of vehicles and includes the entire area between its lateral property lines. Without limitation, highway includes unassumed and unopened road allowances.

Sidewalk shall mean the area between the curb lines or lateral lines of a roadway and the adjacent property lines improved for the use of pedestrians.

Town shall mean The Corporation of the Town of Deep River.

SCOPE

This policy shall apply to temporary patios for licensed establishments on both private and public property throughout the municipality, and temporary patios for commercial and other uses on municipally owned sidewalks and road allowances in the commercially zoned areas of Deep River.

PROCEDURES

Eligibility

1. Any Licensed Establishment located within the municipal boundaries of Deep River may apply for a temporary outdoor patio on private property.
2. Any commercial business located in the C1 – Town Centre 1 zone is eligible to apply for a commercial patio on a sidewalk or parking space adjacent to their business.
3. Commercial businesses outside of this area may apply; however specific approval from Council will be required.

Application Process

4. A completed application form must be submitted to the Town, including the required site plan sketches showing the proposed layout, proof of insurance, and any other required documentation.
5. Applications will be circulated to the following for review and comment:
 - a. Fire and emergency services
 - b. Public Works
 - c. Chief Building Official
 - d. Infrastructure and Contracts Manager
 - e. Any other Town or County department at the discretion of the CAO
6. Site inspections may be conducted to identify specific safety concerns and potential impact on municipal operations. Further conditions or site plan adjustments may be required based on these inspections.
7. Where required by federal, provincial, or other regulation, a valid business license for the applicant from the appropriate authority is required for the application year. Updated business licenses for each year of the permit period will be required.
8. Alcohol Gaming Commission of Ontario (AGCO) approval is required for applicants that intend to serve alcohol in the outdoor area.

9. Written approval from neighbouring businesses is required where the building frontage is shared (e.g., multiple businesses are in the same unit or multiple units are in the same building) or where the on-street parking space fronts multiple businesses.
10. Liability insurance with a minimum \$2,000,000 coverage for sidewalk and boulevard use or \$5,000,000 for on-street parking use is required. This policy shall be endorsed to include the Corporation of the Town of Deep River, its Council and Employees and any person, firms or corporations designated by the Town as an Additional Insured, for the operation of the Patio. The Operator must indemnify the Corporation of the Town of Deep River safe and harmless from any and all claims of injury to persons or damage to property attributable in whole or in part to the existence, location and operation of a Patio on municipally owned property. Proof of insurance shall be provided before the permit is issued.
11. A scale drawing of the proposed outdoor area to be used shall be provided and can be hand sketched on the application form page provided. This drawing shall include:
 - a. The length of the business frontage (i.e., directly facing the street);
 - b. Business entrance location and any other doors/exits;
 - c. Width of the sidewalk and/or on-street parking space;
 - d. Locations of any street trees, furniture, fire hydrants, and other infrastructure like light poles;
 - e. Location of adjacent parking spaces;
 - f. Location of adjacent loading zones;
 - g. Proposed location(s) and sizes of structures and/or accessories proposed for the outdoor commercial use.
 - h. A description and specification of the height and material to be used for fencing or barriers is required for on-street parking space use.
12. Applications for parking place patios along Ridge Road will further require an approved County of Renfrew Road Occupancy Permit.

Approvals

13. The CAO or designate will be authorized to issue approval of the application by signing the completed application form. The signed application, including conditions if any, will form the Outdoor Commercial Use Permit to operate an outdoor commercial patio.
14. The Outdoor Commercial Use Permit will be issued on a three (3) year basis by the CAO or their designate.
15. Permits for patios on private property are valid for the full calendar year.
16. Permits for sidewalk use are valid for the full calendar year.
17. Permits for on-street parking use are valid only for the period between May 15th and October 15th.

18. Permit renewals are administered through application prior to the current permit expiry date.

GENERAL PROVISIONS

Design Requirements

19. Patios should be designed to contribute to, and integrate into the streetscape. Materials and landscaping should be of high quality, and enhance and reflect the character of the business and building.
20. Outdoor commercial use may be in any form suitable to the nature of the business (e.g., seating for dining, retail display for sale of goods and services, activities to engage clients, etc.) provided the design requirements are met.
21. Mobile vending is not permitted through an Outdoor Commercial Use Permit and shall follow the procedures in the "Food Service By-law", as amended.
22. All proposed structures and/or accessories to be used in the outdoor commercial use area shall be temporary in nature and movable within 24-hours.
23. All proposed structures, tables, chairs and decorative accessories should be constructed using weather resistant materials.
24. Accessories shall not damage any public property (i.e., no anchoring into pavement, trees, posts, street lights, etc.), and shall not endanger any underground utilities. Accessories shall not interfere with water drainage (e.g., no covering catch-basins, no re-directing the flow of water).
25. Umbrellas are permitted for shade with a 2.1 m vertical (overhead) clearance. Umbrellas shall not project into the 1.5-metre-wide pedestrian space on the sidewalk. Shade structures affixed to the building, such as awnings, are considered permanent and require a building permit. Tents are not permitted.
26. Certified electric or propane patio heaters are permitted where located at least 3.0 m away from overhead structures or tree branches. The heater shall be operated per the manufacturer's directions and stored inside when not in use. Solid, gel, or liquid-fuel fire features are not permitted.
27. Any advertising on accessories shall not exceed 10% of the exposed surface area. Third party advertising is not permitted, with the exception of umbrellas. Any other signage requires a Sign Permit, in accordance with the Sign Bylaw, as amended.
28. No use of public electrical infrastructure is permitted. No extension cords may cross or project into the pedestrian area.
29. Fencing for patios must be placed around the perimeter and shall have a minimum height of 1.0 metres, and a maximum height of 1.2 metres. Fencing should incorporate a solid base perimeter to facilitate identification of the barrier by visually impaired individuals. Guards are required and subject to the Ontario Building Code. Fencing around the perimeter of the interface of vehicular traffic will be required. Fencing may be wood or wrought iron to ensure pedestrian safety and be of quality material and

design. As the intent of this policy is not to create a privacy enclosure, open fencing is required. Fencing materials must be described in full on the Outdoor Commercial Use Patio Application,

30. Landscaping of the patio is encouraged but should be of a temporary nature and a detailed outline of the landscaping plan should be submitted in the Outdoor Commercial Use Patio Application. Plant material must be of high quality and contained within the approved Patio area.
31. Any lighting of the patio shall be of a temporary nature not conflict with traffic or the passing of vehicular traffic. Additional lighting may be required as part of the patio installations.

Sidewalk

32. A 1.5-metre-wide clear pedestrian space shall be maintained on the sidewalk.
33. Applicants may use the entire length of their frontage (i.e., where the business directly faces the street) for outdoor commercial use on the sidewalk and/or boulevard where there is sufficient width.
34. Where the frontage is shared by multiple businesses, the applicant shall provide written approval from the neighbouring businesses for the proposed use.
35. The outdoor commercial use shall not block the doors of the business or any neighbouring businesses or uses.

On-street Parking

36. Applicants may use any on-street parking space that is adjacent to their business. There shall be a 0.5 m clearance between the outdoor commercial use and the vehicle travel lane.
37. Where a parking space is in front of more than one business, the applicant shall provide written approval from the neighbouring business for the proposed use.
38. Outdoor commercial uses may not be located in a loading zone, accessible parking space or marked for another use, within 5.0 m of a fire hydrant, within 6.0 m of a stop sign, or any other restricted area in the Parking By-law, as amended.
39. All outdoor commercial uses in an on-street parking space shall include a fence or barrier (e.g., planters) to delineate the space from vehicle travel lanes. The fence or barrier shall be constructed of sturdy material that cannot be easily moved into traffic, but may not be affixed to the pavement. The fence or barrier shall be a minimum of 1.0 metre and a maximum of 1.2 metres high from the pavement.
40. Any exit gates shall be at least 0.9 m in clear width, and provided with exit signs where the gate is not clearly visible to patrons. The gate shall swing freely outward from the outdoor commercial use, but shall not open into the travel lane.

41. A reflective hazard marker sign shall be placed on the corner of the fencing or barrier that faces oncoming traffic. The bottom of the sign shall be at least 1.0 m from the pavement.

Private Parking

42. Any outdoor commercial patio installed on private property should not reduce the number of parking places serving that business to below the minimum required by the "Zoning By-law" as amended.

Ongoing Use requirements

43. The use of all outdoor commercial uses shall comply with the "Property Standards By-law" as amended.

44. Cooking or food and drink preparation is not permitted in an outdoor commercial use area.

45. Patio hours of operation shall not be operated for longer than the operating hours of the principal use to which it is accessory. The hours of operation that patios will be permitted to be open are from 7:00 AM to 11:00 PM. If the hours of operation for the principal use extend beyond these times, the patio must be closed to the public. The patio must be secured during the time it is closed, with chairs and tables stacked and umbrellas stored.

46. Music or other entertainment provided for the patrons of a patio shall not create a nuisance to abutting property owners. The Town reserves the right to revoke agreements and permits, where a nuisance occurs. Nuisance may include, but shall not be limited to, public reports of loud, boisterous or unreasonable noises, offensive language or other disruptive behavior.

47. Permit holders shall maintain the sidewalk, temporary sidewalk, patio area, and the immediately adjacent area in a clean and safe condition, free from hazards at all times.

48. Waste receptacles and work stations should be located along the building wall. The operator shall ensure any refuse originating in the patio area is removed from the street right-of-way.

49. Permit holders that keep structures and/or accessories outdoors in an on-street parking space are asked to sweep within their permitted space and 2.0 m on either side twice per week. Any debris collected should be disposed of, and must not be deposited on the road surface or adjacent parking areas. Town crews perform street sweeping operations regularly. Notice may be provided to permit holders to remove their structures and/or accessories overnight to allow crews to complete a more thorough sweep.

50. In an emergency maintenance or repair situation on the public highway, any structures and/or accessories outside will be removed by others to allow for the emergency activities to occur. In a non-emergency maintenance or repair situation on the public highway, reasonable notice will be provided to the permit holder to remove their structures and/or accessories to allow activities to occur.

51. Permit holders shall prepare a revised emergency plan for the building and the outdoor commercial use evacuation as needed.
52. Permit holders shall maintain the same occupancy that is permitted inside their commercial or institutional use between the indoor and outdoor spaces combined.
53. Town staff will inspect the installation and removal of the patio. Approval must be obtained from the Town, prior to the use or prior to public access to the patio.
54. All Patios will be barrier free, in accordance with Accessibility for Ontarians with Disabilities Act, Building Code and Municipal requirements.
55. Smoking and vaping are prohibited on the Patios in accordance with Provincial regulations and the Municipal Smoking By-laws (15-2003).

Permit Expiration

56. Permits will expire at the end of the month of December in the third calendar year after approval.
57. Permits may be cancelled by the Town at any time with 24 hours' notice.

Additional Considerations

58. An Outdoor Commercial Use Permit is not transferable to a third party. Only the business named in the permit may use the space.
 59. The Town of Deep River reserves the right to complete spot inspections and investigate complaints as needed to ensure permit holders are complying with guidelines.
 60. Should a permit holder be found in violation of any terms of the Permit, they will be notified in writing at the address on the Permit or hand delivered to the site. Failure to rectify this problem within the allotted time period will result in cancellation of the Permit.
 61. Permit Holders will be advised of any changes or amendments to the Outdoor Commercial Use Permit Policy in writing at the address on the Permit, or hand delivered to the site. A 30-day period will be given to existing permit holders prior to the implementation of any changes to the policy.
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