



Est. 1873

REPORT TO MAYOR AND COUNCIL

PRESENTED:	SEPTEMBER 17, 2018 - REGULAR AFTERNOON MEETING	REPORT:	18-137
FROM:	ENGINEERING DIVISION	FILE:	0340-50-ENGI1
SUBJECT:	PROPOSED AMENDMENTS TO POLICY NO. 05-009 "PRIVATE USE OF PUBLIC SIDEWALKS"		

RECOMMENDATION:

That Council adopt revised Policy No. 05-009 "Private Use of Public Sidewalks", presented as Attachment B to this report, incorporating the following amendments:

- Allow the service of alcohol with conditions as set out in the Policy;
- Provide for permit issuance subject to liquor license requirements;
- Prohibit smoking on sidewalk patios that are utilizing portions of public road right of way;
- Increase the minimum clearance available for pedestrians to 1.8 metres;
- Increase the current insurance requirement to \$5,000,000;
- Include indemnification and release clauses as a condition of the permit; and
- Allow the use of outside heating devices on the sidewalk patio.

EXECUTIVE SUMMARY:

Council Policy No. 05-009 "Private Use of Public Sidewalks" (see Attachment A) defines the criteria and conditions to evaluate applications for sidewalk patios on public rights of ways adjacent to food and beverage establishments. Section 4.5.6 of the Policy prohibits the serving of alcoholic beverages on such patios. At its Regular Evening Meeting of June 25, 2018 Council passed a resolution directing staff to amend the Policy to permit the serving of alcohol on patio on private property, subject to compliance with the requirements of the provincial Liquor Control and Licensing Branch.

Staff reviewed the policies of several municipalities including the cities of Vancouver, New Westminster, Courtenay, Victoria and Richmond to gauge a level of most commonly used practices related to service of alcohol. The research was intended to determine whether conditions and requirements are imposed for such use, as well as the other criteria contained within policies (i.e. lessons learned) that may be beneficial to include in the Township's Policy. Based on the findings of the review, specific requirements related to the service of alcohol with respect to separation from the sidewalk with railings or barriers as well as occupancy and liquor license requirements have been incorporated. The majority of policies reviewed included a requirement for confirmation of liability insurance in the amount of \$5,000,000. The minimum area required for pedestrians ranged from 1.8 to 2.43 metres as opposed to the 1.5 metres, in the Township's current Policy, which may be insufficient in high pedestrian traffic areas such as Fort Langley. Clauses have also been included to indemnify and save the Township of Langley harmless from potential liability and finally to allow for outside heating devices on patios.

PURPOSE:

To seek Council endorsement of amended Policy No. 05-009 Private Use of Public Sidewalks to allow the service of alcohol as well as other amendments.

BACKGROUND/HISTORY:

In May of 2015 Council endorsed Policy 05-009 "Private Use of Public Sidewalks" (see Attachment A) to define the criteria and conditions to evaluate applications for sidewalk patios on public rights of way adjacent to food and beverage establishments. The Policy includes criteria on suitable locations, general design principles, pedestrian circulation considerations, herniate and development permit guidelines, operations and maintenance considerations, information on fences, barriers, awnings, overhangs, lighting and plant materials. The Policy also includes information on permits applications, requirements and conditions. Sections 4.5.6 of the Policy states "Alcoholic beverages will not be permitted on Sidewalk Patios utilizing public right of way".

DISCUSSION/ANALYSIS:

Concerns have been raised by local business owners that the Policy restricts the service of alcoholic beverages with implications on local business economic development and viability. At its Regular Evening Meeting of June 25, 2018 Council passed the following resolution:

"That item #11 on the June 21, 2018 Distribution list be referred to staff to amend the Policy to permit patios on private and public lanes and the service of alcohol thereon, provided the majority of the patio is on private lands, subject to compliance with Liquor Control Regulations"

Staff have researched the applicable policies, guidelines and bylaws of several municipalities including the cities of Vancouver, New Westminster, Courtenay, Victoria, and Richmond to determine if they permit the service of alcohol and the conditions and requirements that may be appropriate for this type of use on patio on public right of way. Staff also reviewed the various policies, guidelines and bylaws of other municipalities to determine if other changes may be needed or beneficial to the Township. The finding of the review included the following:

- Outdoor patio seating on public right of way adjacent to restaurants and cafes serving alcohol must be surrounded by a railing or other boundary.
- Sidewalk patios where alcohol is served must have a temporary easily removable railing or barrier a minimum of 1.07 metres in height.
- The establishment is required to have a valid liquor license for the restaurant or café, as issued by the province of British Columbia, Liquor Control and Licensing Branch, and must apply for and obtain a liquor license extension for the sidewalk patio.
- To extend the liquor license to include a patio, the establishment must apply for an occupant load permit and a liquor license extension for the patio.
- The permit duration varies from a permit for peak periods only (examples of April 1 to October 31 and May 1 to November 30) to an annual permit.
- The total number of guests, including the patio, cannot be greater than what is approved by the occupancy permit.
- Inclusive limit of public liability and property damage insurance, with cross liability insurance, naming the municipality as insured ranging from \$2,000,000 to \$5,000,000 for each occurrence with \$5,000,000 being more common.
- Fees range from a fee of \$ \$50 to 145.20 per year or a fee of \$2.50 to \$12.40 for each square foot (\$27 to \$133.50 per square metre) of sidewalk encroached upon per year.
- Security Deposits of up to \$600 for each application.
- Smoking is prohibited on the sidewalk patio provided for the establishment.

- A minimum clearance of 1.8 to 2.43 metres is to be provided for the use of pedestrian on the adjacent sidewalk.
- That the permit applicant indemnifies and holds harmless the municipality from all claims of any kind, however caused, whether known or unknown, arising out of or in any way connected with:
 - The permission to use the public right of way for a sidewalk patio
 - The existence or use of the public right of way for a sidewalk patio
 - The construction, maintenance, existence, use or removal of the works associated with a sidewalk patio on public right of way
 - The indemnity includes, without limitation, a claim for loss or injury to person or to property due to the permit applicants negligence or to the permit applicants failure to comply with municipal bylaws or any one of them or with any provision in the agreement
- No finding of negligence, whether joint or several, as against the municipality in favour of any third party in an action to which the permit applicant was not a party, shall operate to relieve or shall be deemed to relieve the permit applicant in any manner from any liability to the municipality, whether such liability arises under the permit, under the provisions of the Local Government Act as amended from time to time.
- The permit applicant releases the municipality from all claims of any kind, whether known or unknown, which the permit applicant now has or at any future time may have, however caused, arising out of or in any way connected with the permission to use the public road right of way granted by the permit, the existence and use of the public sidewalk patio area, the construction, maintenance, use of removal of the associated works, or the exercise by the municipality of any of its rights in the permit.
- The municipality, at any time in its sole discretion, withdraws the rights it has granted to the permit applicant in the permit and may terminate the permit on 4 weeks notice. Should the municipality exercise its termination rights, the municipality will reimburse the permit applicant the permit fee to the permit applicant, on a proportionate basis, based on the remaining portion of the year. On receipt of the notice, the permit applicant shall, within the time period stated in the notice, at his or her expense, remove the works and otherwise restore the public right of way used for a sidewalk patio to the satisfaction of the municipality.
- Heaters area permitted, but must not be placed within the dripline and/or closer than two metres from any part of adjacent street trees.
- Heaters should consider the visual impact and be as unobtrusive as possible.
- Any heating devices should be appropriate for the use in a sidewalk patio and complement the character of the adjacent business.
- All outdoor heating devices must conform to safety standards established by the Canadian Standards Association (CSA) and certified by the Underwriters' Laboratories of Canada (ULC), where necessary.

Based upon the review of the policies of other municipalities, staff amended the existing policy to allow for the service of alcohol with conditions, added requirements for railings, the prohibition of smoking, increased clearance for pedestrians on the adjacent sidewalk, increased insurance requirements, and the inclusion of indemnification and release clauses. As such, the Policy has been amended, as illustrated in Attachment B, for the consideration of Council. The following changes have been made:

PROPOSED AMENDMENTS TO POLICY NO. 05-009

"PRIVATE USE OF PUBLIC SIDEWALKS"

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- Modification of Sections 4.2.3, 4.2.5, 4.6.1 and 4.6.2 to clarify that railings or are temporary and must be easily removable.
- Modification of Section 4.5.2, 4.5.3, and 4.5.4 to clarify railings or barriers must be removed at the end of the day, cannot be stored or stacked on public right of way when the business is closed, cannot be secured to public infrastructure such as the sidewalk.
- Modification of Sections 4.3.2 and 4.3.3 to increase the minimum pedestrian space from 1.5 metres to 1.8 metres.
- Modification of Section 4.5.6 to allow the service of alcohol on sidewalk patio using the public right of way is the majority of the total sidewalk patio area (more than 50%) is on private property.
- Addition of Section 4.5.6.1 and Section 4.5.6.2 to further define the conditions under which the service of alcohol on a sidewalk patio will be permitted.
- Addition of Section 4.5.13 that includes the total sidewalk patio area within the limits of the occupancy permit.
- Modification of Section 4.7.3.5 to increase the insurance requirement to \$5,000,000.
- Addition of Section 4.5.14 to prohibit smoking on any patio that utilizes a portion of the public right of way.
- Addition of Section 4.7.15, Section 4.7.16, Section 4.7.17, and Section 4.7.18 related to indemnification and release for the Township.
- Addition of Section 4.6.21 to allow the use of outdoor patio heaters, with conditions.

Staff recommends that Council approve the amended Policy No. 05-009 "Private Use of Public Sidewalks" as shown in Attachment B.

Existing permits would continue to be in effect under the conditions under the old Policy until they expire or renewal is requested. Any new permits to be issued or the renewal of permits upon expiry would have to meet the conditions of the amended Policy, subject to the approval of Council.

Respectfully submitted,

Paul Cordeiro
MANAGER, TRANSPORTATION ENGINEERING
for
ENGINEERING DIVISION

ATTACHMENT A Existing Policy No. 05-009 Private Use of Public Sidewalks

ATTACHMENT B Amended Policy No. 05-009 Private Use of Public Sidewalks

COUNCIL POLICY

Subject: Private Use of Public Sidewalks

Policy No: 05-009
Previous Policy No: 05-783
Approved by Council: 2015-05-11
Revised by Council: 2016-05-30

1. Purpose

- 1.1 To define the criteria and conditions to evaluate applications for sidewalk patios on public rights of way adjacent to food and beverage establishments.

2. Background

- 2.1 A *Sidewalk Patio* is defined as any outdoor seating area situated within the public road right-of-way and associated with a food and/or beverage establishment and acting as an extension of that establishment.
- 2.2 The Township has received requests to accommodate sidewalk patios on portions of the public road right of way. This Policy sets out the criteria for review of applications, implementation and monitoring of Highway Use Permits necessary to accommodate Sidewalk Patios.

3. Related Policies

- 3.1 Highway and Traffic Bylaw 2010 No. 4758 and amendments thereto.
- 3.2 Fees and Charges Bylaw 2007 No. 4616 and amendments thereto
- 3.3 Noise Control Bylaw 1988 No. 2573 and amendments thereto

4. Policy

4.1 Suitable Locations

- 4.1.1 Sidewalk Patios will only be considered on sidewalks immediately adjacent to food and/or beverage establishments. The minimum sidewalk width for consideration of sidewalk patios is 3 meters.
- 4.1.2 Sidewalk Patios will not be considered near intersections, pedestrian crossing facilities, bus stops or commercial loading zones.
- 4.1.3 Sidewalk Patio areas shall not block access to municipal infrastructure such as fire hydrants, valves, manholes or access to third party utilities such as gas, hydro or telecommunications manholes, kiosks, boxes, etc.

4.2 General Design Principles

- 4.2.1 The layout for the proposed Sidewalk Patio must consider all existing sidewalk obstructions such as signs, poles, bus stops, fire hydrants, street furniture, street trees and landscaping.

- 4.2.2 Sidewalk Patios shall not encroach upon the frontage of neighbouring establishments, without explicit consent from the neighbouring property's owner and tenant (if applicable), in writing, which must be submitted to the Township with at time of permit application.
- 4.2.3 Sidewalk Patios may be required to be enclosed by railing, fencing or planters at the discretion of the Township based upon the review of the permit application.
- 4.2.4 Arrangement of Sidewalk Patios shall not obstruct visibility of and access to neighbouring businesses.
- 4.2.5 Patio furniture, enclosure barriers, plants etc. shall not block pedestrian or vehicular sightlines or block street signage.
- 4.2.6 Design and installation of Sidewalk Patios must maintain barrier free access for persons with disabilities.
- 4.2.7 Sidewalk Patios must provide a minimum of 1 metre (40") between the Patio perimeter and any residential or business entrances in the same or adjoining buildings.
- 4.2.8 Minimum set back from fire hydrants must be 1.2 metre (47"). Minimum setback from street furniture, trees, bus shelters, light standards, trash receptacles, newspaper vending kiosks, benches etc. is to be 0.5 meters (20").

4.3 **Pedestrian Circulation**

- 4.3.1 *Pedestrian Space* is defined as the clear, unobstructed non-undulating sidewalk area reserved exclusively for the use of the public.
- 4.3.2 Sidewalk Patios must have a minimum of 1.5 metres of unobstructed non-undulating Pedestrian Space.
- 4.3.3 Additional Pedestrian Space over and above the minimum 1.5 metres may be required in areas of higher pedestrian usage, where concerns with mobility of wheelchairs, strollers or bicycles are raised, or where site inspections otherwise dictate, at the discretion of the Municipal Engineer.
- 4.3.4 The required Pedestrian Space must be maintained at all times.
- 4.3.5 There is not to be any street furniture, flower stands, planters or canopies, umbrellas etc. of any kind onto or projecting onto the Pedestrian Space.
- 4.3.6 The Pedestrian Space must be clear of obstructions caused by tree wells, posts, signs, hydrants or any other infrastructure.
- 4.3.7 No part of the sidewalk patio may extend into the Pedestrian Space.
- 4.3.8 Adequate space must be provided within the sidewalk patio area to allow for the movement of patrons and wait staff without interfering with free pedestrian flow on the clear pathway.
- 4.3.9 There must not be any service provided to patrons beyond the Sidewalk Patio area.
- 4.3.10 Wait staff may not use the Pedestrian Space in the course of serving patrons in the Sidewalk Patio area

4.4 Heritage and Development Permit Areas

- 4.4.1 In heritage areas and development permit areas, the application, including the site plan, must be consistent with the appropriate heritage revitalization guidelines and development design guidelines.

4.5 Operations and Maintenance

- 4.5.1 The Sidewalk Patio shall only be set up during the applicable hours of operation, as specified in the Permit.
- 4.5.2 All tables and chairs shall be removed from the sidewalk at the end of each business day.
- 4.5.3 The tables and chairs may not be stacked or stored outside on the public right of way when the business is closed.
- 4.5.4 Patio furniture shall not be secured to sidewalks, lamp posts, street lights, trees or other public street furniture.
- 4.5.5 The business shall comply with all applicable laws and regulations regarding the sale and service of food and beverages including the Provincial Liquor Control and Licensing Branch (LCLB). Compliance is the sole responsibility of the establishment and failure to comply may result in immediate and irreversible termination of the Permit.
- 4.5.6 Alcoholic beverages will not be permitted on Sidewalk Patios utilizing the public right of way.
- 4.5.7 Patio operators will be responsible for the proper maintenance of the patio area at all times, including the proper disposal of trash whether generated by the operation or others.
- 4.5.8 All furniture and fixtures must be maintained in good visual appearance, without visible fading, dents, tears, rust, corrosion and chipping or peeling paint.
- 4.5.9 All furniture and fixtures must be maintained in a clean condition at all times.
- 4.5.10 All patio service is to be terminated and all customers relocated indoors by no later than 10 pm. The patio is to remain closed between the hours of 10pm and 7 am.
- 4.5.11 Music or other entertainment will not be permitted on Sidewalk Patios due to the potential nuisance to the public or to nearby properties.
- 4.5.12 The Township reserves the right to revoke Permits, without reimbursements of fees, where this nuisance occurs. Nuisance may include, but shall not be limited to, loud, boisterous or unreasonable noise, offensive language or other disruptive behavior.

4.6 Fences, Barriers, Awnings, Overhangs, Lighting and Plant Materials

- 4.6.1 Fences, screens and barriers must be constructed for easy removal, if required.
- 4.6.2 Attachment of any fence, barrier or structure to Township property is not permitted.

- 4.6.3 Corner cuts in an outdoor patio must be provided at intersections.
- 4.6.4 No fence, barrier or structure shall have any sharp or pointed pickets or otherwise be designed and constructed in a way that could cause injury.
- 4.6.5 Bollards and chain fencing is not permitted as it may create a hazard to pedestrians with visual impairments.
- 4.6.6 The width of any opening in the fence, used for exit or egress, shall be no greater than 2 m and no less than 1 m and shall be oriented to and open directly along the property frontage and shall not cause exit of patrons to the frontage of an adjacent business.
- 4.6.7 The railing, fencing, or other patio enclosure height is to be between 0.9 and 1.06 m.
- 4.6.8 No material may be used between any overhang and enclosure barriers.
- 4.6.9 Advertising and signage is not permitted to be attached to the barriers or fencing.
- 4.6.10 Planting of flowers and container grown vegetation shall be in planters that are easily removable from the site.
- 4.6.11 Planters may not exceed 0.91 m above the level of the sidewalk (not including the plant material). The total height of the plant and planter is not to exceed 2 meters (79").
- 4.6.12 Planters and the content within must not obstruct the public right of way, intended for the use of pedestrians, in any way.
- 4.6.13 All materials within the planters must be healthy and aesthetically maintained.
- 4.6.14 Awning or umbrella materials shall be securely fastened to a frame that is either retractable or demountable.
- 4.6.15 If a canopy or awning is used, it may not use supports which rest on Township street right-of-way and appropriate permits must be obtained.
- 4.6.16 Table umbrellas must be securely attached to tables and must not encroach into the pedestrian passageway in any way.
- 4.6.17 No umbrellas may be attached to the Sidewalk Patio enclosure barriers.
- 4.6.18 Materials and colours shall coordinate with the architectural elements of the building within which the business operates.
- 4.6.19 Exterior pedestrian scale lighting will only be permitted provided it is directed into the sidewalk patio to avoid casting glare on nearby properties or pedestrians.
- 4.6.20 Lighting shall not have exposed cables or energized fixtures. Electrical cords shall not be placed across the pedestrian pathway.

4.7 Permit Application, Requirements and Conditions

- 4.7.1 The Highway Use Permits for Sidewalk Patios are reviewed and approved by the Municipal Engineer or his/her designate.
- 4.7.2 The Permits are renewable on annual basis.

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- 4.7.3 As part of the Highway Use Permit (Sidewalk Patio) Application the applicant is required to submit the following:
 - 4.7.3.1 A complete Highway Use Permit Application signed by the establishment's owner.
 - 4.7.3.2 A non-refundable application fee of \$25 payable to the Township of Langley.
 - 4.7.3.3 Three sets of (11" x 17") detailed drawings (drawn to scale) showing the interior floor plans as well as the proposed sidewalk patio.
 - 4.7.3.4 The floor plans are to include dimensions in metric units, the seating arrangements of the sidewalk patio as well as the interior of the establishment. Any planters, awning, umbrellas, canopies etc. are to be included and clearly labeled. Any street furniture, benches, bus stops, bus shelters, fire hydrants, street trees etc. are to be included as well as the setback distance to the perimeter of the sidewalk patio.
 - 4.7.3.5 Proof of \$2 million third party liability insurance naming the Township of Langley as additional insured.
 - 4.7.3.6 The proposed Sidewalk Patio application/proposal is to be reviewed by other Township departments, including Protective Services prior to final Permit issuance.
 - 4.7.3.7 Upon finalization of the application/proposal, a \$75 annual Permit fee is required prior to the issuance of the Permit.
 - 4.7.4 Each subsequent annual renewal will require a \$25 application fee and \$75 Permit fee.
 - 4.7.5 Additional Inspection fees of \$25 per inspection may be charged.
 - 4.7.6 The review process may take up to four (4) weeks to be completed. The review process will not start prior to submission of all required documentation.
 - 4.7.7 Any missing or incorrect information will cause further delays in the review and approval process of the permit.
 - 4.7.8 The approval authority lies solely with the Township and the Township may choose not to issue a Highway Use Permit.
 - 4.7.9 The permit will not be valid if the establishment does not hold a valid business license for the purpose of serving food and/or beverages.
 - 4.7.10 The sidewalk patio is to be removable within 24 hours if notice is given.
 - 4.7.11 Where the operator of the Sidewalk Patio fails to conform to the terms and conditions of the Permit, the Township may terminate the Permit and order the removal of the Sidewalk Patio. Should the operator fail to comply with the order the Township reserves the right to take action in order to remove the sidewalk patio and charge the operator of any incurred costs.

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- 4.7.12 Inspections of the site may be carried out by any Township Staff at any time. However, the Township is not obligated to carry out such inspections and these inspections do not relieve the applicant in any way, shape or form from the applicant's obligation to comply with the conditions of the Permit.
 - 4.7.13 Any alterations to the Sidewalk Patio area including the addition of tables, seating, lighting, speakers, planters, umbrellas etc. will require a review of the Sidewalk Patio area Permit by the Township.
 - 4.7.14 The Township and all public utility agencies retain the right of access to the approved Sidewalk Patios area for the installation, maintenance and repair of pipes, cables, wires, poles, hydrants, etc. as necessary. In case of emergency, no notice may be given. For scheduled work, a minimum notice of forty-eight (48) hours will be given. Sidewalk Patio improvements shall be removed and reinstated at the Sidewalk Patio operator's expense.



COUNCIL POLICY

Subject: Private Use of Public Sidewalks

Policy No: 05-009
Previous Policy No: 05-783
Approved by Council: 2015-05-11
Revised by Council: 2016-05-30

1. Purpose

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- 2.2 The Township has received requests to accommodate sidewalk patios on portions of the public road right of way. This Policy sets out the criteria for review of applications, implementation and monitoring of Highway Use Permits necessary to accommodate Sidewalk Patios.

3. Related Policies

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- 4.1.3 Sidewalk Patio areas shall not block access to municipal infrastructure such as fire hydrants, valves, manholes or access to third party utilities such as gas, hydro or telecommunications manholes, kiosks, boxes, etc.

4.2 General Design Principles

- 4.2.1 The layout for the proposed Sidewalk Patio must consider all existing sidewalk obstructions such as signs, poles, bus stops, fire hydrants, street furniture, street trees and landscaping.

- 4.2.2 Sidewalk Patios shall not encroach upon the frontage of neighbouring establishments, without explicit consent from the neighbouring property's owner and tenant (if applicable), in writing, which must be submitted to the Township with at time of permit application.
- 4.2.3 Sidewalk Patios may be required to be enclosed by easily removable temporary railings, fencing or planters at the discretion of the Township based upon the review of the permit application.
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- 4.2.5 Patio furniture, enclosure railings or barriers, plants etc. shall not block pedestrian or vehicular sightlines or block street signage.
- 4.2.6 Design and installation of Sidewalk Patios must maintain barrier free access for persons with disabilities.
- 4.2.7 Sidewalk Patios must provide a minimum of 1 metre (40") between the Patio perimeter and any residential or business entrances in the same or adjoining buildings.
- 4.2.8 Minimum set back from fire hydrants must be 1.2 metre (47"). Minimum setback from street furniture, trees, bus shelters, light standards, trash receptacles, newspaper vending kiosks, benches etc. is to be 0.5 meters (20").

4.3 **Pedestrian Circulation**

- 4.3.1 *Pedestrian Space* is defined as the clear, unobstructed non-undulating sidewalk area reserved exclusively for the use of the public.
- 4.3.2 Sidewalk Patios must have a minimum of 1.8 metres of unobstructed non-undulating Pedestrian Space.
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4.4 Heritage and Development Permit Areas

- 4.4.1 In heritage areas and development permit areas, the application, including the site plan, must be consistent with the appropriate heritage revitalization guidelines and development design guidelines.

4.5 Operations and Maintenance

- 4.5.1 The Sidewalk Patio shall only be set up during the applicable hours of operation, as specified in the Permit.
- 4.5.2 All tables, chairs, railings or barricades shall be removed from the sidewalk at the end of each business day.
- 4.5.3 The tables, chairs, railings or barricades may not be stacked or stored outside on the public right of way when the business is closed.
- 4.5.4 Patio furniture, railings or barriers shall not be secured to sidewalks, lamp posts, street lights, trees or other public street furniture.
- 4.5.5 The business shall comply with all applicable laws and regulations regarding the sale and service of food and beverages including the Provincial Liquor Control and Licensing Branch (LCLB). Compliance is the sole responsibility of the establishment and failure to comply may result in immediate and irreversible termination of the Permit.
- 4.5.6 The service of alcoholic beverages will be permitted on Sidewalk Patios utilizing the public right of way if the majority of the total patio area (more than 50%) is on private property. The following conditions must also be met for Sidewalk Patios serving alcohol:
- 4.5.6.1 An easily removable temporary railing or barrier a minimum of 1.07 metres in height.
- 4.5.6.2 The business must have a valid liquor license and apply for and obtain an occupant load permit and a liquor license extension for the sidewalk patio.
- 4.5.7 Patio operators will be responsible for the proper maintenance of the patio area at all times, including the proper disposal of trash whether generated by the operation or others.
- 4.5.8 All furniture and fixtures must be maintained in good visual appearance, without visible fading, dents, tears, rust, corrosion and chipping or peeling paint.
- 4.5.9 All furniture and fixtures must be maintained in a clean condition at all times.
- 4.5.10 All patio service is to be terminated and all customers relocated indoors by no later than 10 pm. The patio is to remain closed between the hours of 10pm and 7 am.
- 4.5.11 Music or other entertainment will not be permitted on Sidewalk Patios due to the potential nuisance to the public or to nearby properties.
- 4.5.12 The Township reserves the right to revoke Permits, without reimbursements of fees, where this nuisance occurs. Nuisance may include, but shall not be limited to, loud, boisterous or unreasonable noise, offensive language or other disruptive behavior.

4.5.13 The total number of guests, including the patio, cannot be greater than what is approved by the occupancy permit.

4.5.14 Smoking will not be permitted on any patio that is utilizing any of the public road right of way.

4.6 **Fences, Barriers, Awnings, Overhangs, Lighting and Plant Materials**

4.6.1 Fences, screens, railings or barriers, barriers must be constructed for easy removal, if required.

4.6.2 Attachment of any fence, railing or barrier or structure to Township property is not permitted.

4.6.3 Corner cuts in an outdoor patio must be provided at intersections.

4.6.4 No fence, barrier or structure shall have any sharp or pointed pickets or otherwise be designed and constructed in a way that could cause injury.

4.6.5 Bollards and chain fencing is not permitted as it may create a hazard to pedestrians with visual impairments.

4.6.6 The width of any opening in the fence, used for exit or egress, shall be no greater than 2 m and no less than 1 m and shall be oriented to and open directly along the property frontage and shall not cause exit of patrons to the frontage of an adjacent business.

4.6.7 The railing, fencing, or other patio enclosure height is to be between 0.9 and 1.06 m.

4.6.8 No material may be used between any overhang and enclosure barriers.

4.6.9 Advertising and signage is not permitted to be attached to the barriers or fencing.

4.6.10 Planting of flowers and container grown vegetation shall be in planters that are easily removable from the site.

4.6.11 Planters may not exceed 0.91 m above the level of the sidewalk (not including the plant material). The total height of the plant and planter is not to exceed 2 meters (79").

4.6.12 Planters and the content within must not obstruct the public right of way, intended for the use of pedestrians, in any way.

4.6.13 All materials within the planters must be healthy and aesthetically maintained.

4.6.14 Awning or umbrella materials shall be securely fastened to a frame that is either retractable or demountable.

4.6.15 If a canopy or awning is used, it may not use supports which rest on Township street right-of-way and appropriate permits must be obtained.

4.6.16 Table umbrellas must be securely attached to tables and must not encroach into the pedestrian passageway in any way.

4.6.17 No umbrellas may be attached to the Sidewalk Patio enclosure barriers.

- 4.6.18 Materials and colours shall coordinate with the architectural elements of the building within which the business operates.
- 4.6.19 Exterior pedestrian scale lighting will only be permitted provided it is directed into the sidewalk patio to avoid casting glare on nearby properties or pedestrians.
- 4.6.20 Lighting shall not have exposed cables or energized fixtures. Electrical cords shall not be placed across the pedestrian pathway.
- 4.6.21 Outdoor heating devices will be allowed, subject to the following conditions:
 - 4.6.21.1 Heaters must not be placed within the dripline and/or closer than 2 metres from any part of adjacent street trees.
 - 4.6.21.2 Placement and appearance of the Heaters should consider the visual impact and be as unobtrusive as possible.
 - 4.6.21.3 Any heating devices should be appropriate for the use in a sidewalk patio and complement the character of the adjacent building.
 - 4.6.21.4 All outdoor heating devices must confirm to the safety standards established by the Canadian Standards Association (CSA) and certified by the Underwriters' Laboratories of Canada (ULC) where necessary.

4.7 **Permit Application, Requirements and Conditions**

- 4.7.1 The Highway Use Permits for Sidewalk Patios are reviewed and approved by the Municipal Engineer or his/her designate.
- 4.7.2 The Permits are renewable on annual basis.
- 4.7.3 As part of the Highway Use Permit (Sidewalk Patio) Application the applicant is required to submit the following:
 - 4.7.3.1 A complete Highway Use Permit Application signed by the establishment's owner.
 - 4.7.3.2 A non-refundable application fee of \$25 payable to the Township of Langley.
 - 4.7.3.3 Three sets of (11" x 17") detailed drawings (drawn to scale) showing the interior floor plans as well as the proposed sidewalk patio.
 - 4.7.3.4 The floor plans are to include dimensions in metric units, the seating arrangements of the sidewalk patio as well as the interior of the establishment. Any planters, awning, umbrellas, canopies etc. are to be included and clearly labeled. Any street furniture, benches, bus stops, bus shelters, fire hydrants, street trees etc. are to be included as well as the setback distance to the perimeter of the sidewalk patio.
 - 4.7.3.5 Proof of the inclusive limit of public liability and property damage insurance, with cross liability insurance, naming the Township as insured in the amount of \$5,000,000 for each occurrence.

- 4.7.3.6 The proposed Sidewalk Patio application/proposal is to be reviewed by other Township departments, including Protective Services prior to final Permit issuance.
- 4.7.3.7 Upon finalization of the application/proposal, a \$75 annual Permit fee is required prior to the issuance of the Permit.
- 4.7.4 Each subsequent annual renewal will require a \$25 application fee and \$75 Permit fee.
- 4.7.5 Additional Inspection fees of \$25 per inspection may be charged.
- 4.7.6 The review process may take up to four (4) weeks to be completed. The review process will not start prior to submission of all required documentation.
- 4.7.7 Any missing or incorrect information will cause further delays in the review and approval process of the permit.
- 4.7.8 The approval authority lies solely with the Township and the Township may choose not to issue a Highway Use Permit.
- 4.7.9 The permit will not be valid if the establishment does not hold a valid business license for the purpose of serving food and/or beverages.
- 4.7.10 The sidewalk patio is to be removable within 24 hours if notice is given.
- 4.7.11 Where the operator of the Sidewalk Patio fails to conform to the terms and conditions of the Permit, the Township may terminate the Permit and order the removal of the Sidewalk Patio. Should the operator fail to comply with the order the Township reserves the right to take action in order to remove the sidewalk patio and charge the operator of any incurred costs.
- 4.7.12 Inspections of the site may be carried out by any Township Staff at any time. However, the Township is not obligated to carry out such inspections and these inspections do not relieve the applicant in any way, shape or form from the applicant's obligation to comply with the conditions of the Permit.
- 4.7.13 Any alterations to the Sidewalk Patio area including the addition of tables, seating, lighting, speakers, planters, umbrellas etc. will require a review of the Sidewalk Patio area Permit by the Township.
- 4.7.14 The Township and all public utility agencies retain the right of access to the approved Sidewalk Patios area for the installation, maintenance and repair of pipes, cables, wires, poles, hydrants, etc. as necessary. In case of emergency, no notice may be given. For scheduled work, a minimum notice of forty-eight (48) hours will be given. Sidewalk Patio improvements shall be removed and reinstated at the Sidewalk Patio operator's expense.
- 4.7.15 As condition of the permit, the applicant indemnifies and holds harmless the Township from all claims of any kind, however caused, whether known or unknown, arising out of or in any way connected with:
 - The permission to use the public right of way for a sidewalk patio

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- The existence or use of the public right of way for a sidewalk patio
 - The construction, maintenance, existence, use or removal of the works associated with a sidewalk patio on public right of way
- 4.7.16 As a condition of the permit, the indemnity includes, without limitation, a claim for loss or injury to person or to property due to the permit applicants negligence or to the permit applicants failure to comply with Township bylaws or any one of them or with any provision in the agreement.
- 4.7.17 No finding of negligence, whether joint or several, as against the Township in favour of any third party in an action to which the permit applicant was not a party, shall operate to relieve or shall be deemed to relieve the permit applicant in any manner from any liability to the Township, whether such liability arises under the permit, under the provisions of the Local Government Act as amended from time to time.
- 4.7.18 The permit applicant releases the Township from all claims of any kind, whether known or unknown, which the permit applicant now has or at any future time may have, however caused, arising out of or in any way connected with the permission to use the public road right of way granted by the permit, the existence and use of the public sidewalk patio area, the construction, maintenance, use of removal of the associated works, or the exercise by the Township of any of its rights in the permit.