
To: Mayor and Council

From: Dan Perreault, C.E.T., Director of Public Works

Meeting Date: February 26, 2024

Subject: Report #PW-004-2024 – On-Street Patio & Retail Display Policy

Recommendation

Be It Resolved that Council of the Township of Clearview hereby receive report PW-004-2024 (On-Street Patio & Retail Display Policy) dated February 26, 2024; and,

- 1) That Council approve the Township On-Street Patio & Retail Display Policy as presented in Appendix A to this report.

Background

At the May 30, 2022 Council meeting, staff were asked to investigate and report back to Council for the implementation of a policy relating to on-street seasonal patios in the downtown cores. A report and On-Street/Sidewalk Patio Guideline and Policy was presented and endorsed by Council on September 12, 2022.

At the April 3, 2023 meeting a motion was passed by Council to refer the On-Street/Sidewalk Patio Guideline and Policy to Staff for review of items relating to accessibility and AODA compliance, and safety of pedestrians, workers and traffic. In June 2023, the Township Accessibility Advisory Committee met in Creemore to review the two patios that obtained a permit from the Township.

Comments and Analysis

Based on staff observations, feedback from members of the public and the site visit from the Accessibility Advisory Committee the On-Street/Sidewalk Patio Guideline (September 2022) has been revised into the On-Street Patio & Retail Display Policy presented today.

Some items that have been revised in the On-Street Patio & Retail Display Policy are;

- Eliminate the option to have a patio on any sidewalk.
- Patios will only be permitted within the on-street parking stall directly adjacent to the property.
- A platform/deck that is level with the curb be constructed as part of the patio area.

- That there is an unobstructed path of travel to the patio from the sidewalk.
- That there is a visual identifier between the edge of the curb and patio platform.
- That a barrier/fencing be securely attached to the top of the decking and that the barrier/fencing to be constructed in order to prevent a pedestrian from climbing or falling through into traffic.
- That a minimum of one table or 20% of tables (whichever is greater) must be easily accessible to persons using mobility aids.
- Includes the requirement to obtain a permit for retail displays (clothing racks, food/clothing displays, art displays, book racks, etc.) and are to be located within the building front.
- Include the requirement to obtain a permit for sidewalk café areas which consists of 2 small tables and 4 chairs placed parallel to the building front.

Financial Implications

Staff have proposed the implementation of fees associated with the On-Street Patio & Retail Display Policy that include permit fees for 2024 of;

- Retail Merchandise Display – Annual Permit Fee = \$80
- Sidewalk Café – Annual Permit Fee = \$80
- On-Street Patio – Annual Permit Fee = \$350

These fees will be included in the Township’s Fees & Charged By-law will be evaluated on a yearly basis along with other department fees.

Revenues will be based on the number of permits issued.

Clearview’s Strategic Plan

The above initiative supports the following strategic pillars:

- Recreation & Culture
- Communication
- Core-Business (Agriculture)

Report Appendices

Appendix A – On-Street Patio & Retail Display Policy

Approvals

Submitted by: Dan Perreault, C.E.T., Director of Public Works

Reviewed by: John Ferguson, CAO

Approvals

Financial Implications
Reviewed by: Kelly McDonald, Director of Finance/Treasurer

Approved by: CAO



CLEARVIEW
TOWNSHIP

On-Street Patio & Retail Displays Policy

Approved: February 2024

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1. Introduction

The Township of Clearview is committed to supporting local businesses with innovative and efficient ways that align with guidelines that have been implemented by other municipalities in the Province of Ontario. This guideline supports the creation of temporary/seasonal on-street patios, retail merchandise displays on municipal property and café locations.

Restaurants, cafes, and merchants can take advantage of warmer weather by offering outdoor dining experiences, retail displays and café seating amidst the pleasurable downtown cores in Clearview Township.

The Township of Clearview has the role of reviewing on-street patio, retail merchandise displays and café applications and design concepts from businesses to ensure universal accessibility, public safety and a positive streetscape experience are enhanced and not negatively impacted by the introduction of street furniture, including; patios, retail displays and/or cafés.

All applications are required to comply with the Accessibility for Ontarians with Disabilities Act (AODA) and the Integrated Accessibility Standard, as may be amended from time to time.

2. Definitions

2.1 For the purpose of this Policy the following definitions apply:

Storefront Retail Display Area means the area of the public sidewalk located immediately in front of each business not to protrude any further than 0.6 metres (2 feet) from the property line for the length of the business frontage.

Sidewalk Café means a group no more than 2 (two) tables and 4 (four) chairs situated and maintained upon a public sidewalk 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 located immediately against the facade of the building not to protrude any further than 0.6 metre (2 feet) from the property line for the length of the business frontage.

On-street Patio means a group of tables and chairs and other accessories, other than a Sidewalk Café, which is situated and maintained within a designated on-street parking stall 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 located adjacent to the curbside. All on-street patios must be raised to a level that is equal to the adjacent sidewalk and contain the required traffic and safety measures approved by the Township of Clearview Public Works Department.

Municipal Property includes the municipal sidewalk and boulevard area situated between the curb and building front.

Municipal Road Allowance includes the on-street parking areas that form part of the road allowance that is owned and maintained by the municipality.

3. Terms and Conditions

- 3.1 Included in this section is an overview of the Terms and Conditions of the On-Street Patio & Retail Displays. More detail on each of the items included in this section can be found throughout this document.
- 3.2 General Terms and Conditions applicable to Patios and Retail Displays:
- 1) Applications for a patio are to be submitted to the Township of Clearview – Public Works Department on an annual basis. Applications will be circulated for cross- department review and approval.
 - 2) Applicants are required to submit a Site Plan for the proposed patio and/or retail display location.
 - 3) Compliance must be maintained at all times with all federal and provincial laws, as well as all municipal by-laws, which includes, without limitation, any statute, regulation, order, guideline, policy, code, ordinance or rule, as well as any principle of common law or equity.
 - 4) The permit holder shall maintain the prescribed insurance coverage at all times.
 - 5) The Township retains the right of access over, to and upon the patio for emergency services purposes.
 - 6) A pedestrian walkway of 1.5 meters shall be maintained free and clear at all times on the municipal sidewalk.
 - 7) Patios, Retail Displays and Cafes shall be constructed and maintained as per the terms and conditions set out in the prescribed standard or as otherwise approved by the Township and must be compliant with the Accessibility for Ontarians with Disabilities Act (AODA).
 - 8) The municipality shall not be held responsible or liable for any damages or loses, resulting to, or from the placement or operation of a patio and/or retail display.
 - 9) Permit holders shall maintain the patio and/or retail display area, including the area immediately adjacent to the patio and/or retail display, in a clean, safe and hazard free condition at all times.
 - 10) Retail Displays may be made available all days of the week during the operating hours of the associated business. All displays must be

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removable and not permanently fixed in place and are required be removed from the sidewalk outside business hours.

- 11) Retail displays and patio designs must be sympathetic to heritage objectives and meet requirements with respect to public safety.
- 12) Patio structures and furniture must be constructed in accordance with the prescribed standard.
- 13) Patio furnishings, fences, and other patio improvements must be removable and not permanently fixed in place.
- 14) Retail displays such as clothing racks and tables must be maintained in a neat and orderly condition at all times.
- 15) Entrances and other ingress points to buildings and businesses shall remain free of merchandise, displays and/or patio furniture and shall not otherwise impede or limit access to the building.
- 16) Patios are to be permitted to operate from May 15th to October 15th annually, unless permission has been granted from the Public Works Department.
- 17) Patios must adhere to all AGCO requirements and provide proof of applicable permits and licenses at the time of application. Those applicants requiring a temporary extension of an existing liquor license must clearly identify the area in their application and such extension is at the discretion of the municipality to approve.
- 18) The use of portable heaters must meet the TSSA guidelines, and an inspection is required by Fire Services prior to their use. The TSSA guidelines to the use of portable heaters can be found in Section 6.12.
- 19) Patio permit holders shall not obstruct any utility infrastructure or access to utility infrastructure. The applicant shall be responsible for clearance of any debris and overall maintenance to ensure normal operation and unimpeded access.
- 20) Patio permit holders are responsible for ensuring that the patio placement is not encumbered by municipal street furniture (e.g., waste receptacles) and landscaping. Municipal street furniture and landscaping will not be moved/altered to accommodate a patio.
- 21) Construction, maintenance and operation of the temporary patio shall be the responsibility of the applicant. Operators will be responsible for the management and logistics of any approved temporary patio,

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including ensuring that they are staffed at all times when open, to ensure proper use, cleaning, and operation as required.

- 22) The Township reserves the right to suspend or revoke or suspend a previously issued patio and/or retail display permit, by providing the permit-holder with written notice should the permit holder be found to have:
- a) Provided false or misleading information on their application for the permit;
 - b) Deviated from the agreed terms of the site plan;
 - c) Not complied with any of the conditions of the permit;
 - d) Not complied with any of the requirements of the Clear Sidewalks & Roadways By-law;
 - e) Not complied with any of the standard terms or conditions or any other requirement prescribed by the Township Director of Public Works or designate.

Additionally, the Township may, at any time, suspend a permit for up to twenty-eight (28) days and to provide the permit-holder with written reasons for such suspension, should the Township need the property on which the patio and/or retail display is situated for:

- a) The holding of a special event;
 - b) The construction, maintenance or repair of Township-owned property, including any infrastructure thereon, therein or thereunder;
 - c) The installation, maintenance or repair of a public utility or service; or
 - d) Pedestrian vehicular or public safety or public health.
- 23) All patios and merchandise display areas authorized under a Patio and/or Retail Display Permit are subject to final inspection by representatives of the Township and/or other inspection agencies such as the Simcoe Muskoka District Health Unit and/or Alcohol and Gaming Commission of Ontario, and are not to be used by patrons of the Permit Holder or the public until such inspections have been completed and the results of such inspections meet the satisfaction of the Township of Clearview and/or inspection agency. The Township and/or other inspection agencies and/or Officers have the right to conduct further inspections at any time.

4. Process

4.1 How to Apply

Visit the [Clearview Patio and Retail Merchandise Display webpage](#) to become familiar with the program information included.

Complete the [Application for a Patio and Retail Merchandise Display](#) in its entirety, all questions are mandatory. Once complete, send the application form and all supporting documentation to patios@clearview.ca All business operators are required to submit an application or request for renewal annually and pay the corresponding fees.

A Site Plan Drawing must be submitted with your application. Details to what is to be included in your Site Plan is provided under Section 5.8 of this Policy.

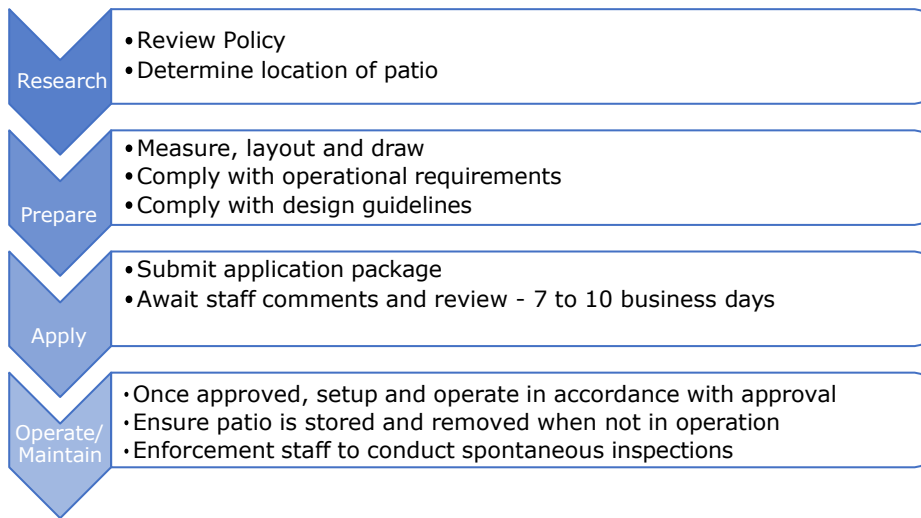
Note: Guidelines including access to public thoroughfare from all building exits and from the patio, 1m (3') clearance around fire hydrant and fire department connections, no exits can be obstructed is required.

For any Patio or Retail Display on the municipal right of way, in an on-street parking space a Certificate of Insurance naming the Corporation of the Township of Clearview must be provided with application submission. Details to what is required for this certificate is provided in Section 5.5 of this policy.

It is recommended that Patio or Retail Display Applicants connect with the Public Works Department prior to applying. Sometimes elements of an application are not required and the Public Works Department can determine this.

Below is an outline of how the application process works:

4.2 Application Process



4.3 Program Fees

The Township of Clearview Fees and Charges By-law includes fees specific to the Patio or Retail Display Program. There are separate fees for a retail merchandise display, sidewalk café and on-street patio licence. These licences are required to be applied for annually.

Businesses are responsible for the Patio or Retail Display and the costs associated with their applicable permit including, but not limited to patio fencing, platforms and furniture. Installation of a retail display would be the responsibility of the business owner responsible for the display including clothing racks and merchandise display, etc.

5. Operational Requirements

5.1 Location

The Patio or Retail Display must be directly adjacent to the applicant business. Extensions in front of neighboring properties or units may be permitted with the written consent of the neighboring property owner or affected business.

Patio or Retail Displays within the municipal right of way, including on-street parking spaces and municipal property must be located on streets where there is existing on-street parking or surplus pavement width. If a patio is located within an

on-street parking space, the patio is to be set in from the traveled portion of the road a minimum of 0.5 metres.

Patio or Retail Displays within the municipal right of way, including on-street parking spaces and municipal property must be at least one parking space away from an intersection or driveway, or otherwise approved by the Director of Public Works (or designate).

Patio or Retail Displays must not be placed in front of a fire hydrant or within 1m (3ft) of a hydrant or fire connection, designated loading zone, or in designated accessible parking space.

Patio or Retail Displays should not obstruct surface drainage or access to public utility equipment such as utility boxes, pedestals, vaults, utility hole / hand hole covers, utility poles. Township equipment such as, traffic signal poles, street light standards, traffic sign poles, hand hole covers, sewer drains and covers, fire hydrants, benches, bike racks, waste receptacles, etc. cannot be obstructed. Township owned trees can be located within a Patio or Retail Display.

Locations that have higher pedestrian volumes and low vehicle operating speeds are preferred. The Township will evaluate any candidate site for potential traffic and safety impacts and required site improvements. If a location is determined to have traffic and/or safety concerns, this could negate the use of the space – this would be solely at the discretion of the Township of Clearview.

Each application will be reviewed for impacts to surrounding businesses and residences. If concerns arise or are flagged, staff will work with the applicant to attempt to find a solution that minimizes impacts to surrounding community. The interpretation of concerns and issues is at the sole discretion of the Township of Clearview.

5.2 Retail Display Description and Location

A retail display area can include any of the following:

- Display of merchandise from the adjacent business including but not limited to clothing, goods for sale, etc.
- Art for display or sale
- Fresh produce available in the adjacent business

A retail display can be provided in a free form adjacent to the building face and is described as a Storefront Retail Display Area. This can include a table, clothing rack or object that can be contained within the building face or within two (2) feet of the building front.

5.3 Patio Types and Locations

Outlined below are the two types of patios permitted under this Policy.

- 1) **Sidewalk Café:** this type of patio is not licensed to serve alcohol and is located within the building face directly in front of the building. It consists of two (2) small tables that can accommodate four (4) chairs placed parallel to the building front. A sidewalk café does not require a fence.
- 2) **On-street Patio:** this type of patio is positioned within on-street parking spaces and is required to be constructed at the same height as the abutting sidewalk. This patio type is subject to Township of Clearview requirements with the installation of traffic barriers, signage, warning bollards and suitable fencing to ensure the safety of the patrons utilizing the patio space. This patio is required to be fenced and has the ability to be licensed for the sale of alcohol in accordance with requirements of the AGCO. This patio type is seasonal, being permitted from May 15 through to October 15.

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5.4 Permission

If the Patio or Retail Display operator wishes to utilize municipal property a permit issued by the Township of Clearview must be obtained. This permit will set out the applicant's obligations and conditions of operation.

Patio or Retail Displays may be installed and operated between May 15th and October 15th each calendar year during the term of the agreement.

5.5 Insurance and Indemnity

A Patio or Retail Display located on the municipal right of way, including on-street parking spaces or other municipal property (i.e. road allowance, sidewalk, boulevard, alleyway), the patio operator will provide and maintain evidence of a minimum \$5 Million in comprehensive liability insurance for property damage, personal injury and public liability on the lands, naming the Corporation of the Township of Clearview as an additional insured.

A valid Certificate of Insurance must be written on the comprehensive basis and contain the following:

- Name of Insurer (the insurance company)
- Policy number and Term of Policy
- Type of Policy: General Liability Policy containing public liability and property damage insurance including personal injury liability, blanket contractual liability, non-owned automobile liability, products-completed operations and employers liability, with respect to the Licensed Area and the Permit Holder's use of the Licensed Area, with coverage including the activities and

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operations conducted by the Permit Holder and those for whom the Permit Holder is in law responsible and containing a severability of interests clause and cross-liability clause.

- Limit of Policy: \$5 million per occurrence
- Named Insured (must be the Legal Name of Business that is listed on the Patio Application).
- Description of the Temporary Patio and activities to be insured.
- Dates of patio operation (include set up and take down dates).
- Location of Patio
- The Corporation of the Township of Clearview, 217 Gideon Street, Stayner, Ontario, L0M 1S0, is added as an 'Additional Insured'.
- A provision requiring that at least thirty (30) days' written notice be given to the Township in the event that such insurance coverage is terminated or changed in any manner.
- Signature of insurance provider or broker.

5.6 Liability and Maintenance

Patio operators will be responsible for the installation and on-going maintenance of the patio which includes removal or storage of patio and furnishing outside of regular business hours and permitted patio operation season.

Retail Display operators will be responsible for the installation and on-going maintenance of the retail display area which includes removal of the display when the business is closed.

Patio or Retail Display operators shall ensure that their seasonal temporary commercial patios and retail display areas do not interfere with the free and safe passage of persons using the sidewalks and road allowance and shall always maintain the area and keep the abutting municipal property in a good and safe condition.

The Patio or Retail Display operator acknowledges that they have physical possession or care and control of the seasonal temporary commercial patio and the lands abutting. The Patio or Retail Display operator shall take such care as in all the circumstances of the case that is reasonable to see that person entering on the premises, and the property brought on the premises by those persons are reasonably safe while on the premises.

The maintenance requirements shall include, but not be limited to:

- washing/sweeping the Patio or Retail Display area on a daily basis

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- ensuring all patio furniture is secured accordingly or removed from the patio area when the business is not operating.
- watering all plants contained within the Patio or Retail Display
- promptly removing any garbage or graffiti

Additionally, early or late in the patio season as weather dictates, the clearing of snow and ice, as well as salting or sanding the premises and the abutting land for the safe passage of persons entering the temporary patio.

It should also be noted that in times of inclement weather or strong winds that patio furniture and retail display areas be removed to reduce the risk of property damage.

The Patio or Retail Display operator and approved applicant agree to defend, indemnify and save harmless the Township of Clearview from and against all actions, causes of action, interest, claims, demands, costs, damages, expenses, or loss howsoever arising which the Township or the establishment may bear, suffer or be put to by reason of any damage to property or injury or death to any person as a result of the Patio or Retail Display.

5.7 Liquor License

Business owners that wish to serve alcohol on their Patio or Retail Display must ensure that they have a valid liquor license issued by the Alcohol and Gaming Commission of Ontario (AGCO) at the time of application to the Township of Clearview.

In November 2022, the AGCO amended Regulation 746/21 under the Liquor Licence and Control Act, 2019 establishing a new framework for temporary outdoor physical extensions (temporary patios), which took effect January 1, 2023. These changes impact liquor sales licence holders and manufacturer by-the glass endorsement holders.

In order to obtain permission to sell alcohol on a temporary patio, liquor sales licensees and manufacturers that hold a by-the-glass endorsement will require municipal approval. Upon obtaining approval from the municipality, liquor license sales licensees and manufacturers that hold by-the-glass endorsements will be required to notify the AGCO by making a submission on the iAGCO portal before selling or serving liquor on temporary patios.

In addition to these new requirements, temporary patios may only operate for a maximum of eight months per calendar year.

The AGCO will no longer accept applications or otherwise approve temporary patios for licensees located in municipalities, requests will be facilitated through the Patio or Retail Display Program process.

Further to the above, any business that has been approved for a permanent outdoor liquor license and the footprint of this outdoor area has not been expanded, permission for a temporary outdoor physical extension is not required.

Proof of a valid liquor license is required through the application process to ensure no additional approvals are needed for the proposed patio.

5.8 Patio Site Plan Review

A Patio or Retail Display will require Site Plan drawings to be submitted with the application and reviewed through the Public Works Department and applicable departments and agencies.

Site Plan drawings should include the following:

- Drawings to scale, with dimensions in metric units;
- Municipal address included, all streets labelled;
- Location of property boundaries identified;
- All existing and proposed structures shown (including awnings);
- Size of proposed outdoor seating area and capacity identified;
- Location of all municipal infrastructure / equipment such as, fire hydrants, traffic signal poles, street light standards, traffic sign poles, hand hole covers, sewer drains and covers, benches, bike racks, waste receptacles, utility boxes, utility poles, etc. must also be included;
- Location of any patio and building entrances and their widths (i.e. doors, gates) indicated;
- Accessible pathway (sidewalk, entrance access) identified;
- If any fencing or barriers are proposed, identify the proposed location, the proposed materials of the fence, its height and how it will be fastened to the sidewalk or patio platform;
- For on-street patios, description of the platform to be constructed including the materials to be used and construction plans;
- For retail displays, the type of display platforms to be used and how they will be secured to the sidewalk (i.e. how will the racks be weighed down to remain in place); and,
- Location of any fire department connection on the front of the building and fire hydrants on the sidewalk.

5.9 Noise and Amplification

Patios and Retail Display permit holders are required to abide by the regulations provided in the Township of Clearview's Noise By-law. This includes but is not limited to the use of amplified music.

5.10 Signs and Advertising

The use of A-Frame signs does not require a permit from the Township of Clearview as per the Township's Sign By-law. Although a permit is not required, the Operator is responsible for ensuring that the A-Frame sign complies with the Sign By-law. More information on signs is available on the Township of Clearview's website under By-laws and Policies.

6. Design Guidelines

6.1 Patios located within On-Street Parking Areas

Patios located within an on-street parking space should be brought to the same height as the sidewalk using a platform.

Roadside barriers must be installed to mitigate the risk of an errant vehicle striking either a pedestrian, restaurant patrons seated at tables or restaurant staff serving patrons. The roadside barrier must meet the standards prescribed by the Township of Clearview and require to be in place prior to the patio being used. All barriers installed in parking or curb lanes shall be equipped with an appropriate amount of retroreflective material to provide adequate daytime and night-time visibility. The leading edge of the barriers is to be placed on an angle 25 – 45 degrees to protect patrons and restaurant employees from a lateral impact.

6.2 Installing On-Street Patios

Patio operators wishing to implement patios in parking spaces are not permitted to install their patio until an appropriate road protection system and temporary signing is installed. Setup or takedown of any structure or materials on parking spaces or curb lanes can only be completed by a road authority or contractor who is trained and qualified in the OTM Book 7. The Ontario Health and Safety Act and Regulations takes precedence over OTM Book 7 in worker safety matters.

6.3 Unobstructed Pedestrian Clearway

An unobstructed pedestrian clearway with a minimum width of 1.5 metres (5.0 feet) shall be maintained at all times as a throughway or to pass by the Patio or Retail Display and any other physical obstructions such as a street light, traffic signal or sign pole, tree, fire hydrants, bus shelters, waste receptacles, street furniture or utility pedestals, vaults and/or poles that are within or in close proximity to the Patio or Retail Display.

Patio or Retail Display shall not obstruct a fire hydrant, fire route, fire department connection, or emergency exit nor pose any other safety risk.

The Patio or Retail Display area must be compliant with [Accessibility for Ontarians with Disabilities Act \(AODA\)](#) standards and cannot obstruct an accessible travel path. There must also be an accessible travel path from the patio to an accessible washroom where the establishment is barrier free.

6.4 Emergency Access

If the curb or on-street patio is longer than 15 metres, a review may be conducted by the fire department to determine whether any emergency access points must be installed as part of the fencing or lateral barrier. Should this be required, the patio operator will be notified in writing from the road authority.

An emergency access point is a space with an easily identifiable and removable piece of fencing, at least 1 metre wide, allowing emergency services to gain quick access to the sidewalk from the road. An example of an emergency access point could be removable wooden boards, suspended by brackets.

6.5 Accessibility

It is important to consider accessibility when designing all aspects of the patio area or retail display area as noted in the sections below. Establishment operators that apply to the Patio or Retail Display Program are to ensure their design, operation and construction aligns with the Accessibility for Ontarians with Disabilities Act (AODA) where applicable and already barrier free. Each Patio or Retail Display operator is responsible for ensuring compliance with the [Accessibility for Ontarians with Disabilities Act \(AODA\)](#).

Accessible Routes

Accessible routes or barrier-free path of travel must be provided through the patio area, as follows:

- 1) The pedestrian clearway requires a minimum of 1.5 metres of space on most sidewalks, with wider sidewalks with higher pedestrian volumes requiring 2.0 metres.
- 2) To ensure the patio area does not impose a change in the direction of the pedestrian clearway of more than 20 degrees, the patio operator should use a tape measure and something to mark measurement points (pylons, chalk marks, etc.) to verify that this requirement is being adhered to. Wherever possible a barrier-free path of travel shall not be permitted to meander.
- 3) The patio operator must provide accessible access to the patio with a minimum width of 1.8 metres.

- 4) The patio area shall have a minimum head room clearance of 2.1 metres.
- 5) Decking areas shall be constructed using materials and maintained to be firm, stable and slip resistant.
- 6) The patio operator:
 - i) Must not place patio materials in the pedestrian clearway.
 - ii) Must ensure the patio's perimeter fencing has a solid base that is detectable for someone using a white cane.
 - iii) Must not use the pedestrian clearway to queue patrons awaiting their reservation or table.
 - iv) Must not place A-frame signs or other obstacles in the pedestrian clearway.
 - v) Must not lay electrical wires for any appliances (e.g., heaters, lights) across the pedestrian clearway.

Accessible Seating

A minimum of one table or 20% of tables (whichever is greater) must be easily accessible to persons using mobility aids. If more than one accessible table is installed, they should be dispersed through the seating area.

The following should be considered when making decisions about patio elements:

- 1) Consider people using mobility devices when determining what type of furniture are to be set out in the patio area. For example, picnic tables significantly limit a person's mobility device to access a dining surface.
- 2) When determining seating arrangements in the patio area, install some tables with room underneath to accommodate people using mobility devices.
- 3) Ensure that there are clear routes and maneuvering spaces for people using mobility devices on the patio.
- 4) Advertise whether there are accessible washrooms on the website.

6.6 Perimeter Fence

The limits of a licensed patio must be distinguishable. Suitable boundaries include decorative fencing, panels, planters, rope, or other options that may be reviewed and approved by municipal staff and must take into account heritage components. The use of chain link fencing and skids is not permitted. Perimeter fencing is to be portable, to insure for easy removal for the "off" season. To be stored off-site when not in use.

Recommended fencing materials include:

- black metal fencing
- a combination of natural wood posts and railings with black runners

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- a combination of natural wood posts with natural rope connectors



*Photos courtesy of the Town of Collingwood. Permission was obtained for their use.

Perimeter fencing shall not obstruct vehicular or pedestrian sightlines. The fencing shall not block access to neighboring properties.

Fence posts shall be free-standing with fence posts supported on removable plates. The plates shall not extend beyond the perimeter of the fence or pose any hazard to pedestrians.

Perimeter fencing shall be placed so as not to obstruct adequate pedestrian access and public passage between the Patio and any street or laneway, or any physical obstructions such as trees, utility poles, fire hydrants, bus shelters, waste receptacles, street furniture, and the like.

Perimeter barriers shall have a height of minimum 1.06 metres (3.5 feet) to a maximum 1.2 metres (4 feet). These height limitations include all planters, signage, barriers, etc.

Patio decorations and appurtenances shall not be permitted to protrude into the barrier-free path of travel. Leading edges shall be installed to ensure changes in the pedestrian path or permitted protrusions are cane detectable.

If the Patio is located adjacent to a traffic lane, drive aisle, or within an active parking area, a perimeter barrier must be installed a minimum 0.5 metres setback from vehicular activity.

If any part of the patio fencing is near the pedestrian clearway, the fencing must have a solid base, cane-detectable base (for someone using a white cane), spaced no more than 0.3m apart. Fencing near a sidewalk should also have a colour contrasted to the sidewalk to make it easily identifiable to pedestrians.

6.7 Construction

The patio must have modular construction so that it can be easily installed and removed. It should be constructed of wood, composite decking or steel (or any combination of these materials).

Patios located within on-street parking spaces will be required to be constructed with a platform/decking that is flush with the sidewalk or curbside sidewalk patio, while maintaining barrier-free access.

Platforms shall be constructed from a sturdy material intended to carry the anticipated load of the patio. If the platform exceeds a height of 0.6 metres from the ground surface, a building permit will be required and signed off by the Building Department, who will confirm that the platform and fence design are sturdy and will be able to withstand the anticipated lateral loads. This requirement applies to patios within on-street parking spaces or where the patio cannot be positioned at the same height as the sidewalk only.

The platform shall be designed so as not to obstruct surface drainage and will include maintenance hatches to any catch basins or other services underneath the platform.

Posts, signs and other features may not be secured to Township sidewalk by use of screws, nails, or other fasteners that pierce or damage the surface of the concrete, unless approved by Municipal Works staff at time of application review.

The design shall utilize only high quality, durable and attractive materials, which will substantially enhance the quality and attractiveness of the street.

The Township may require additional road safety measures to be installed.

6.8 Patio Surface

A patio surface shall be the same elevation as the adjacent sidewalk. Gaps between the decking and curb edge are not permitted. Constructed of durable, easily maintained material such as wood or composite decking, concrete or interlocking pavers. Outdoor carpeting may be considered.

6.9 Patio Furniture

Furniture shall be contained entirely within patio area and be easily movable.

Aerial awnings and umbrellas to be constructed of a flame-retardant material.

Aerial awnings and umbrellas shall not project beyond the perimeter fence and shall maintain a vertical clearance of at least 2.1 m (7 ft) above patio floor in pedestrian aisles.

Umbrellas shall not encroach into the roadway or sidewalk or interfere with vehicle or pedestrian sightlines.

Umbrellas shall be a solid color, not containing any commercial logos or sponsorships.

Umbrellas shall be removed or closed and secured when the patio is not in operation.

6.10 Lighting

Lighting, other than that affixed to the building must be removable, and directed toward the patio, so as not to cause any undue glare or interference with use of the abutting properties, the public thoroughfare or travelled roadway.

Lighting shall conform to applicable Ontario Building Code Standards.

Lighting shall not be connected to Township or BIA outlets or power sources unless approved by Township Staff and/or BIA.

Electrical power cords or any other devices that cross the travelled portion of the right of way are not permitted.

6.11 Patio Landscape Material

While planters and baskets are encouraged, landscaping may not encroach into any traffic lane or accessible travel path. These must be contained within the approved outdoor patio area size.

Perimeter landscaping is encouraged, but should be of a temporary, removable nature.

Landscaping will most commonly be provided through wood or metal perimeter planter boxes, but alternative approaches may be considered.

Patios may include vertical elements (i.e. planters, umbrellas) to improve visibility for vehicles.

6.12 Patio Heaters

Portable heating devices, including fueled heating appliances like propane patio heaters, are permitted as long as they:

- Meet federal and provincial safety requirements
- Are installed and stored in accordance with the manufacturer's instructions
- Are removed from public property (i.e. sidewalks or on-street parking spaces) when the patio is not in use

For more information, refer to the [Technical Standards and Safety Authority Guidelines](#) for safe use of heaters on outdoor patios.

If installing a portable heating device, it must:

- Be certified by CSA / ULC
- Meet the requirements of TSSA Act 2000
- Be designed for outdoor use only
- Have an anti-tilt feature that automatically shuts off the heater
- Be free-standing, with a minimum height of 160 cm

Table-top heating appliances are not permitted.

Portable heaters can be installed in the following locations on the temporary patio:

- On a non-combustible solid surface (i.e. not on grass or uneven sidewalk)
- Out of the wind
- With a minimum of 1.0 metre clearance from the base of the unit to any combustible material

Do not install portable heaters in the following locations:

- Under fire escapes
- Within a means of egress or adjacent to an exit
- Underneath a combustible structure (i.e. canopies, awnings, tents, wood framework)
- Beside or obstructing firefighting equipment like fire hydrants or Siamese connections
- Near or attached to trees, utilities or other street elements

No electrical wires should be placed on the pedestrian walkways.

6.13 Fueled Heating Appliance

If installing a fueled heating appliance:

- Do not store it outdoors
- Have a maximum of one day's supply of propane on site
- Have a propane tank that does not exceed a single nine-kilogram tank (approximately 10 hours of operation)
- Do not move it while the flame is open; ensure the gas supply is properly shut off and the unit is cool before relocating

- Follow all manufacturer safety requirements for the safe transportation, operation and storage of fuel

6.14 Open Air Burning and Cooking

Open air fires and open-air cooking fires are prohibited on temporary commercial patios. This includes fire pits, wood fired appliances or any similar device.

Natural gas or propane cooking appliances can be used and must meet the following regulations:

- Designed for outdoor use and must meet all applicable requirements of the [Technical Standards and Safety Authority](#)
- Must have a minimum 3.0 metres clearance from combustibles and building openings
- One fire extinguisher with a minimum of a 2A10BC rating must be provided
- Propane tanks shall not be stored inside a building, on a roof, under, on, or within three metres of any window, air intake, fire-escape, stairway, ramp, or door used as a means of egress from a building

All fire safety requirements are subject to inspection and approval from the Clearview Fire Department.

6.15 Smoking/Vaping

Smoking, vaping, and the use of cannabis are not permitted on any patio, pursuant to the Smoke-Free Ontario Act.

7. Implementation

7.1 Installation

Once approval is received from the Township and a permit has been issued to the applicant, the Patio and Retail Display may be constructed and installed in accordance with the approval.

Ensure access is maintained to all entrances, fire department connections, fire hydrants, utilities and the pedestrian clearway is maintained on all sidewalks and pedestrian paths.

7.2 Maintenance

The Patio and Retail Display permit holder is to confirm it is operating in accordance with the issued approvals.

If a Patio and Retail Display is found to be operating without the necessary approvals or in contravention of the issued approval, staff will issue a letter to the operator, notifying them of the requirements and providing the operator an opportunity to comply.

Patio or Retail Display operators will be responsible for the installation and on-going maintenance of the patio or retail display area which includes removal and storage or securing of patio furnishings and retail displays outside of regular business hours and in the winter months.

Patio or Retail Display operators shall ensure that their temporary patios or retail displays do not interfere with the free and safe passage of persons and shall at all times maintain the area, and the abutting municipal property in a good and safe condition.

7.3 Modifications

Patio or Retail Display operators will be required to contact the Township to discuss proposed modifications to an approved Patio and Retail Display and revised submissions must be provided in writing. Amendments to approved Patio or Retail Displays may be considered, provided there is demonstrated compliance with the Policy.

7.4 Renewal

If a Patio or Retail Display approval has an expiration date it will be clearly identified within the approval documentation (normally October 15th annually). It is the responsibility of the operator to submit an application for renewal of an approved patio in subsequent years in order to continue operation.

7.5 Enforcement

Township staff from the various review departments and any applicable agencies may conduct site inspections at any time to confirm a Patio and Retail Display is operating in accordance with the issued approvals.

If a Patio or Retail Display is found to be operating without the necessary approvals, or in contravention of the issued approval, staff will issue a letter to the operator notifying them of the requirements and providing the operator an opportunity to comply.