

CORPORATION OF THE TOWN OF RENFREW  
BY-LAW NO. 17-2021

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Being a By-law to establish the Downtown Seasonal  
Encroachment Guidelines as a new Town policy

WHEREAS Section 11 of the Municipal Act, R.S.O. 2001, a lower-tier municipality and an upper-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public, subject to the rules set out in subsection (4).

AND WHEREAS the Corporation of the Town of Renfrew is committed to supporting and encouraging, where appropriate, seasonal encroachments, consisting primarily of outdoor sidewalk patios, in the front and side yards of Downtown buildings;

AND WHEREAS the purpose of this By-Law is to ensure that neither pedestrian nor vehicular traffic is impeded or hindered within the public right-of-way and that safety is ensured for both patio users and members of the public;

AND WHEREAS the Council of the Corporation of the Town of Renfrew deems it expedient to have a policy in place to regulate seasonal encroachments in the Downtown area, informed in part by the *Downtown Renfrew Streetscape Masterplan and Urban Design Guidelines* (May 2017).

NOW THEREFORE the Council of the Corporation of the Town of Renfrew enacts as follows:

1. THAT the ***Downtown Seasonal Encroachment Guidelines***, attached as Appendix "A" and forming part of this By-law, be adopted as a new Town Policy.
2. THAT the application fees for Major Encroachments, as described in the Policy, shall be in accordance with the Fees and Charges By-law, which is updated annually.
2. THAT this By-law shall come into force and take effect immediately upon the passage thereof.

Read a first and second time this 23<sup>rd</sup> day of March, 2021.

Read a third and final time this 23<sup>rd</sup> day of March, 2021.

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Don Eady, Mayor

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Kim R. Bulmer, Clerk

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<b>Policy:</b>	<b>Downtown Seasonal Encroachment Guidelines</b>
<b>Main Contact:</b>	<b>Director of the Department of Development and Works</b>
<b>Last Revision:</b>	<b>March 2021</b>

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## Policy Statement

The Corporation of the Town of Renfrew is committed to supporting and encouraging, where appropriate, seasonal encroachments, consisting primarily of outdoor sidewalk patios, in the front and side yards of Downtown buildings. The goal of this policy is to bring life to the Downtown streetscape and help bridge a connection between the public and private realms.

## Purpose

The purpose of this Guideline is to ensure that neither pedestrian nor vehicular traffic is impeded or hindered within the public right-of-way and that safety is ensured for both patio users and members of the public. The streetscapes within the Downtown area must facilitate free and comfortable movement – outdoor sidewalk patios and street furniture should not encumber easy navigation. The standards laid out within this document will guide the Town, its residents, and business proprietors in the placement of patios and furniture, working together to ensure that the Downtown streetscape is maintained for free pedestrian movement and enhanced utility. Further, this document is intended to ensure that all patios and street furniture add to the Downtown through the use of high-quality materials and design compatible with the heritage character of the

Downtown, as reflected in the *Downtown Renfrew Streetscape Masterplan and Urban Design Guidelines* (May 2017).

## Definitions

In this Guideline, the following terms have the meanings set out below:

- (a) **“Council”** means the Council of the Corporation of the Town of Renfrew.
- (b) **“Major Encroachment”** and **“Minor Encroachment”** shall have the meanings as described in section 1.0 of this Guideline.
- (c) **“Restaurant Patio”** means an outdoor area within the Town right-of-way that serves as an extension of the seating area of an adjacent eating establishment.
- (d) **“Staff”** includes anyone employed by the Municipality, including full-time, part-time, temporary, casual or seasonal Staff, contract Staff, students and volunteers (in accordance with the *Municipal Act*, Council Members are not considered employees of the Municipality).
- (e) **“Street Furniture”** refers to those objects and pieces of equipment that work to enrich the utility and aesthetic value of the street. Examples of street furniture are: benches, flower pots, retail/merchandise tables, and outdoor sidewalk patio furniture. These design guidelines can, however, apply generally to any object or equipment being placed in the public right-of-way.
- (f) **“Town”** refers to the Corporation of the Town of Renfrew.

## Application

The Town of Renfrew considers encroachment proposals in two tiers – Major Encroachments and Minor Encroachments.

These Guidelines shall primarily apply to Major Encroachments, given their larger scale and seasonally permanent nature. Minor Encroachments, though not involving an application and review process, and by virtue of their reduced scale warrant greater flexibility, are still encouraged to conform to the Guidelines to the extent possible. The Town, in its sole determination, may apply flexibility in the application of the Guidelines to any encroachment where it is deemed appropriate to do so.

## Downtown Encroachment Standards

### 1.0 Major and Minor Encroachment Classification

The two tiers are described as follows:

#### Major Encroachments

- a) Most Major Encroachments will be restaurant patios. Other types of encroachments will be considered by the Town on a case-by-case basis.
- b) The encroachment is not removed at close of business daily
- c) The encroachment extends greater than 1 metre from building
- d) Umbrellas may be permitted where they are appropriately affixed to the ground or suitable pedestal
- e) Any cords or wires must be concealed with appropriate ground cover or conduit to prevent against trip hazards or injury due to electric shock
- f) The encroachment may be enclosed or otherwise delineated from the rest of the sidewalk

#### Minor Encroachments

- a) The encroachment is removed at close of business (e.g., retail displays and sidewalk cafes that are brought inside the store at closing)
- b) The encroachment does not extend greater than approximately 1 metre from building
- c) No umbrellas
- d) No cords or wires including electrical or telecommunication cords
- e) The area is not enclosed or otherwise delineated from the rest of the sidewalk

### 2.0 Application Process

Major Encroachments are required to go through an annual application and review process, including an Encroachment Agreement approved by By-law. The process for Major Encroachments includes the following:

- a) Submission of application and fee

- b) Staff review of site plan/drawings/photos submitted with the application
- c) Applications will be circulated to the Renfrew County Health Unit to confirm compliance with public health requirements, particularly those being implemented during the COVID-19 pandemic.
- d) Reports to Planning Advisory Committee and Council
- e) Encroachment Agreement effective for the duration of the season, executed by the Town and Proponent
- f) Submission of proof of liability insurance carried by the owner/tenant, acceptable to the Town.

By virtue of their reduced scale, Minor Encroachments do not involve an application process or formal agreement with the Town. The process for Minor Encroachments includes the following:

- a) Signing of acknowledgment/waiver by the owner/tenant, which includes the applicable requirements of this Guideline.
- b) Submission of proof of liability insurance carried by the owner/tenant, acceptable to the Town.
- c) The Town keeps the signed waiver/acknowledgment on file for future reference.
- d) This process is administered at the staff level, and does not require a staff report or a decision by Committee/Council.

### **3.0 Major Encroachment Application Requirements**

The following is a list of requirements that the applicant must fulfill in order to complete the Encroachment Application process:

- a) Owners/tenants must complete an Application for Encroachment Agreement form, with supporting documentation and payment of fees before an application will be considered by Town Council, and/or a committee of Council.
- b) A site plan of the proposed patio location, including all dimensions (in metric units) and all existing and proposed street furniture.

- c) Photos illustrating the proposed patio site taken from different angles, showing the proposed site's proximity to the curbside, building face, and existing furniture.
- d) Submission of documentation demonstrating that other regulatory and permitting requirements can be or have been complied with, including the Electrical Safety Authority, Chief Building Official, and Fire Chief (e.g., copies of e-mails, letters, permits received).
- e) If approved, the applicant will be required to enter into an agreement with the Town, which may specify conditions for setup and operation. These agreements are site-specific.

The application materials shall generally demonstrate the following:

- a) Location of existing street furniture, including natural features, such as trees, in and around the proposed patio area;
- b) Sidewalk width, amenity strips, and normal pedestrian traffic flow;
- c) Size of proposed patio area and number of patio furnishings;
- d) Potential patio design must be compatible with and complement the façade of the building to which the patio is accessory and streetscape features, and shall generally be considerate of heritage designs.
- e) Potential for interference with sightlines and street signage; and
- f) Necessity of fencing or tactile tape.

## **4.0 Setup & Operation Guidelines**

The majority of Major Encroachments are anticipated to be in the form of restaurant patios. These Setup and Operation Guidelines shall be followed in order to ensure that the setup and operation of all encroachments are to an equally high standard for all proponents. All encroachments, including non-restaurant encroachments, are expected to abide by the applicable requirements outlined below. The following guidelines address physical setup, maintenance, insurance, and permitted patio operation times.

- 4.1 Encroachments shall be situated in the public right-of-way without interfering with the free and comfortable movement of pedestrian and vehicular traffic.

- 4.2 Encroachment setup must always consider accessibility of the adjacent pedestrian path and of the encroachment itself; all citizens have the right to enjoy the Town's outdoor sidewalk patios.
- 4.3 Patio furniture shall not interrupt pedestrian or vehicular sightlines, or block street signage or access to streetscape amenities (seating, waste receptacles, etc.).
- 4.4 Encroachments shall be situated so that the adjacent pedestrian path weaves as little as possible, and so that straight path alignment is maximized. Where necessary, the re-routing of pedestrian traffic through the use of a boardwalk style path may be permitted.
- 4.5 Encroachments shall operate only between April 15th and October 1st, and shall be removed in their entirety outside of this time period.
- 4.6 Patio operators shall allow music outdoors no later than 10:00 p.m., or in accordance with the noise by-law, whichever standard is more restrictive; patios shall not operate beyond the operating hours of the associated establishment.
- 4.7 Encroachments shall not encroach upon the frontage of neighboring establishments, without explicit consent.
- 4.8 Owners/tenants shall ensure that encroachment setup is simple, tasteful, and removable.
- 4.9 Owners/tenants must carry a minimum of five-million dollars (\$5,000,000) liability insurance for the operation of the outdoor sidewalk patio indemnifying the Town as owner of the public lands on which the patio is situated.
- 4.10 Owners/tenants must ensure that the encroachment area and furnishings are kept clean and in good repair at all times; maintenance shall be ongoing and proactive; temporary or low-quality repair methods shall be avoided.
- 4.11 Owners/tenants must ensure that the sidewalk on which the encroachment is placed is returned to its original condition after encroachment season.
- 4.12 All encroachment objects must be removed from the public right-of-way during the off-season and stored elsewhere.

- 4.13 Encroachments must always operate in accordance with the Town of Renfrew By-laws, especially those dealing with noise, sidewalks, and signage. Patios must also operate in accordance with Ontario's Liquor License laws, and any other applicable statutes.

## 5.0 Design Guidelines

By encouraging temporary encroachments including restaurant patios in the Downtown, the Town aims to enhance the function and appeal of the Downtown area. The uniform application of the following Design Guidelines will ensure that the Town can achieve these goals, while maintaining a barrier- and clutter-free streetscape. Proponents are strongly encouraged to implement design cues from the Town's heritage aesthetic into all encroachment design features, including colour, furniture and fencing. The *Downtown Renfrew Streetscape Masterplan and Urban Design Guidelines* (May 2017) should be referred to for additional detail and design guidance. Minor Encroachments should implement these design guidelines where possible, within the limits of the Minor Encroachment classification.

### Dimensions & Location:

- 5.1 A sidewalk corridor must be a minimum of 3.0 metres wide before a Major Encroachment will be considered.
- 5.2 A clear, unobstructed, accessible pedestrian path shall always be maintained at a minimum of 1.8 metres wide.
- 5.3 A minimum overhead clearance of 2.5 metres must be maintained in the clear pedestrian path.
- 5.4 An encroachment shall generally be located directly next to the building it is serving and, in some cases, structures may be installed which re-route pedestrian traffic through the use of a boardwalk style path into on-street parking space(s),
- 5.5 Sandwich boards or "A-Frame" signs shall require a sign permit, may not obstruct the 1.8 metre clear pedestrian path, and may not be placed closer than 1.0 metre from the edge of curb, or such other distance as shall be specified in the approved sign permit.
- 5.6 Proximity to crosswalks and other pedestrian infrastructure shall be considered in the design and review process, due to these being high-risk areas for pedestrian safety.

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## **Furniture:**

- 5.7 All patio furniture used must be made out of sturdy and weather resistant materials (e.g., wrought iron, aluminum, steel, weatherproof fabrics); plastic/vinyl furniture is strongly discouraged. All materials and furniture shall be maintained in good condition. No weathered, broken, faded or discoloured furniture or materials are permitted, unless such materials were purchased new in that condition. Questions as to the acceptability of materials should be directed to the Town. The Town shall have sole discretion as to the appropriateness of any furniture or materials used.
- 5.8 Patio design must be compatible and complement the façade of the building to which the patio is accessory and streetscape features, and shall generally consider heritage designs.
- 5.9 Patio tables, chairs, and other amenities shall never obstruct or protrude onto the pedestrian path, throughways, or building entrances.
- 5.10 Patio umbrellas may be added to a Major Encroachment, but shall not extend beyond the designated patio area.

## **Fencing and Tactile Tape:**

Upon examination of an encroachment site plan, Town Staff or Council may require perimeter fencing around the proposed patio area; fencing requirements will be determined by the proposed patio size, location in the downtown, and the possibility that the encroachment will impede pedestrian or vehicular traffic or adjacent establishments.

- 5.11 Fencing enclosures may be required where patios are licensed under the Liquor License Board of Ontario (LLBO).
- 5.12 Fencing enclosures shall generally be required for large patios, with 6 chairs or more.
- 5.13 Where possible the requirement for fencing shall be minimized to reduce visual clutter.
- 5.14 Where fencing is not required, proprietors must mark the perimeter of the patio area with white tactile tape for the benefit of the visually impaired.
- 5.15 Where it is required, fencing shall be:
  - (a) 0.92 metres to 1.06 metres high above grade;

- (b) considerate of accessibility, with openings to accommodate a wheelchair at a minimum width of 1.2 metres;
- (c) considerate of accessibility, with a cane detectable edge along fencing at 0.15 metres for the visually impaired;
- (d) sturdily constructed with aluminum, steel, wrought iron, wood, or other solid material;
- (e) design materials and colors used for the fencing should be compatible and complement the façade of the building to which the patio is accessory and streetscape features, and should generally consider heritage design;
- (f) free of jagged edges and other safety threats brought on by poor design or construction; and
- (g) built in accordance with the Ontario Building Code and any other relevant statutes. It shall be the responsibility of the encroachment operator to contact the Chief Building Official, Electrical Safety Authority, and the Fire Department for specific regulatory and permit requirements prior to submission of an application for encroachment agreement, and confirmation that those requirements can be/have been met shall be submitted with the application.

### **Added Amenities:**

- 5.16 Refuse Receptacles: No garbage or recycling containers shall be placed within the encroachment area.
- 5.17 Signage: Minimal advertising or signage is permitted on encroachment fencing, furniture, umbrellas, or surrounding street furniture . Signage and advertising shall be in accordance with the Town's Sign By-law and should reflect the design theme of the patio. Signage shall not in any way imitate traffic signs or signals creating a traffic hazard or distraction.
- 5.18 Lighting: Pedestrian scale lighting is permitted within the limits of the encroachment area. Lighting must be directed downward, and shall not present a tripping hazard in any way. Electrical cords shall not be placed across the pedestrian pathway, without proper placement of cords in cable mats.
- 5.19 Outdoor Heating Devices: Heating devices may be permitted within the patio area. Additional insurance may be required for these items. Conditions for use must be addressed in the agreement with the Town.

## 5.20 Plant Materials:

- (a) Placement of planters in the designated patio area is encouraged as a means of enhancing the area and the entire streetscape;
- (b) No existing Town planters or greenery may be moved, removed, or altered without explicit consent of the Town of Renfrew Department of Development and Works;
- (c) All planters shall be well-maintained, and removable;
- (d) Planters should be integral with fence and barrier structures to maintain a compatible design relationship;
- (e) Larger planters may be used to help define the patio area boundaries; and
- (f) Planters shall not encroach upon the pedestrian right-of-way, and shall not impede free pedestrian movement or present a tripping hazard.

## 5.21 Sneeze Guards:

- (a) During the COVID-19 pandemic, and upon the advice of the Renfrew County and District Health Unit, where a separation of 2.0 metres (6.0 feet) cannot be maintained between the users of an encroachment and the minimum 1.8 metre pedestrian walkway outside of the encroachment, sneeze guards will be required along the perimeter of the encroachment. The acceptability of the configuration and construction of the sneeze guards shall be confirmed by the Town with the Health Unit as part of the application review process.

## 6.0 Street Furniture Standards

Placement, maintenance, and design of any type of street furniture shall generally be in accordance with the applicable provisions of Sections 4.0 and 5.0 of this document.

## Monitoring

### Complaint Protocol

This Guideline is primarily intended to be a flexible revitalization tool. As circumstances evolve, and as market forces, economic conditions, and financial resources change, the Guideline will also need to evolve. In order to inform decision-making about the implementation, and to ensure that the policies are working as they are intended, the guidelines should be monitored, evaluated and, if necessary, revised, on a regular basis.

## Authority

### General Enforcement

Where an operator fails to conform to the terms and conditions of approval, the Town of Renfrew may order that the outdoor sidewalk patio be removed from the public sidewalk on which it is located. If the operator fails to comply with such an order within 24 hours notification, the Town of Renfrew may take such action needed to have the outdoor patio removed, and all costs for removal shall be borne by the encroachment operator or other person responsible for the property served by the encroachment. The Town shall use all means available to it to recover such costs, including collection of costs in like manner as property taxes.

## Contact

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## Change History

Policy Name	Effective Date	Significant Changes	By-law No.
<b>Downtown Seasonal Encroachment Guidelines</b>	March 23, 2021	New Policy	17-2021

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