



Council Policy

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| Council Policy No.: | 02-223 |
| Council Policy Name: | Sidewalk Patio Policy |
| Date Approved by Council: | May 1, 2023 |
| Date of Last Revision: | May 1, 2023 |
| Related Documents | <ul style="list-style-type: none">• Liquor Licence and Control Act, 2019• Smoke-Free Ontario Act, 2017 |

Policy Statement and Rationale:

The Municipality of West Perth recognizes that the development of Sidewalk Patios supports a vibrant, active and an attractive Downtown Commercial Core, with a pedestrian environment that is comfortable, accessible, and aesthetically pleasing. At the same time, private use of public sidewalks must allow for the safe, unobstructed travel of persons of varying accessibilities throughout the Downtown Commercial Core.

Scope:

This Policy shall apply to all public sidewalks located in the Municipality of West Perth. The use of Municipal sidewalks for the Open Display of Merchandise is not part of this Policy and shall continue to be regulated in accordance with Municipal By-laws.

Definitions:

In reading and interpreting the Sidewalk Patio Policy, the following definitions apply:

- a) "Municipality" means the Corporation of the Municipality of West Perth.
- b) "Sidewalk Patio" or "Patio" means a group of tables and chairs and other accessories situated and maintained upon a public sidewalk for the use and consumption of food and beverages, including alcoholic beverages, sold to the public from, or in, an adjoining or adjacent indoor food and beverage establishment. A Sidewalk Patio shall extend no wider than the width of the associated indoor food and beverage establishment.

Policy, Procedure, and Implementation:

1.0 Location

- 1.1 Sidewalk Patios shall only be permitted within the areas shown and/or described in Appendix A, B, and C of this policy. Within the lands shown and/or described in Appendix A, B, and C of this policy, no person shall be permitted to establish a Sidewalk Patio on or over a public sidewalk except permitted by the provisions of this policy.
- 1.2 A Sidewalk Patio may extend out no more than 2.5 metres (8.2 feet) from the building façade, ensuring that a minimum 1.5 meter (ground to sky) unobstructed pedestrian corridor is maintained.
- 1.3 On a corner lot, a Sidewalk Patio shall not be located in the area formed by the projection of the front and side of the building, and the curb of the intersection ('daylight triangle').
- 1.4 The parking of cars and the view of motorists at intersections shall not be impeded by such Sidewalk Patio.
- 1.5 Barrier free access to a Sidewalk Patio area shall be maintained at all times.
- 1.6 Notwithstanding the provisions of this Policy, the Municipality, in its absolute discretion, may determine the exact location, boundaries and configuration of a Sidewalk Patio, on a case-by-case basis.

2.0 Hours of Operation and Season

- 2.1 A Sidewalk Patio may only be open during regular business hours, and no later than 11:00 p.m.
- 2.2 A Sidewalk Patio is permitted only during the period of April 15th to October 15th (inclusive) of a respective year.

3.0 Furniture

- 3.1 All tables, chairs and other accessories in a Sidewalk Patio shall be constructed using sturdy weather resistant materials and be secure and of solid construction as not to be affected by the wind. Furnishings shall not exceed a height of 1.2 metres (48 inches). No picnic tables shall be permitted in a Sidewalk Patio area.

4.0 Furnishings, Fencing and Umbrellas

- 4.1 Sidewalk Patio furnishings, fences, and other Sidewalk Patio improvements must be removable and not permanently fixed in place (i.e., no bolts or brackets). All furnishings, fences, and other Sidewalk Patio improvements shall be placed so that they are stable, and free from sharp edges, protrusions, or other features that may be hazardous to the public.

The owner and/or occupier of a Sidewalk Patio is entirely responsible for the safety, protection, and prevention of theft for any and all furnishings, fences, and other improvements in the Sidewalk Patio area.

- 4.2 All furnishings, fences, and other improvements shall be contained within a Sidewalk Patio area and be removed during the off-season, or after the Sidewalk Patio ceases to exist.
- 4.3 Umbrellas shall be located entirely within the enclosed Sidewalk Patio area.

5.0 Elevated Platforms and Outdoor Carpets

- 5.1 Elevated platforms and outdoor carpets are not permitted within a Sidewalk Patio area.

6.0 Lighting

- 6.1 Lighting of Sidewalk Patios may be permitted if approved by the Municipality.

7.0 Propane Heaters

- 7.1 Propane heaters are prohibited within a Sidewalk Patio Café area.

8.0 Garbage and Refuse

- 8.1 The owner/occupier of a Sidewalk Patio shall at all times be responsible for maintaining the area and keeping it free of dust, papers, and rubbish of any kind.

9.0 Music and Entertainment

- 9.1 Music or other entertainment provided to patrons of Sidewalk Patios shall not be amplified or create a nuisance to neighbouring property owners. All music or entertainment shall cease by 9:00 pm. Where a nuisance occurs, music and/or entertainment must cease immediately, and the Municipality reserves the right to revoke the privilege for that Sidewalk Patio to have music and/or other entertainment in the future. Nuisance may include, but shall not be limited to, loud, boisterous, or unreasonable music, noise, offensive language, or other disruptive behaviour.

10.0 Signages and Awnings

- 10.1 All signage and awnings shall comply with all Municipal By-laws and Policies.

11.0 Smoking

- 11.1 Sidewalk Patios must comply with the *Smoke Free Ontario Act, 2017* as amended, and any associated legislation and regulations.

12.0 Right of Access

- 12.1 The Municipality and all public utility agencies retain the right of access to a Sidewalk Patio area for the installation, maintenance and repair of pipes, cables, wires, poles, hydrants, etc., as necessary. In case of emergency, no notice will be given. For scheduled work, a minimum notice of seventy-two (72) hours will normally be given. All Sidewalk Patio improvements shall be removed and reinstalled at the expense of the Sidewalk Patio owner/occupier.
- 12.2 The Municipality retains a right of access over, to and upon a Sidewalk Patio for emergency vehicle access.

13.0 Enforcement

- 13.1 Where the Municipality's Chief Building Official, By-law Enforcement Officer, Fire Chief or Operation Manager, or authorized agent, identifies a Sidewalk Patio to be in contravention of this Policy, such Official shall have the authority to cause the removal of the offending element of the Sidewalk Patio or the Sidewalk Patio as a whole. Such removal shall be entirely at the expense of the Sidewalk Patio owner/occupier.

14.0 Application Process

- 14.1 Any person who wishes to erect, install, maintain, or carry on a Sidewalk Patio on a public sidewalk shall be required to annually submit an application to the Municipality requesting permission to do so.
- 14.2 Along with the application, the applicant shall submit a detailed site plan, drawn to scale, illustrating the proposed location, placement, dimensions and style of tables, chairs, fences and all other accessories to be included within the defined Sidewalk Patio area, as well as any awnings, utility poles, trees, planters, bike racks, benches, refuse containers, hydrants, shelters, utility holes, traffic signs/signals, catch basins and any other physical, utility or drainage feature on the street/sidewalk within 6 metres (19.7 ft) of the proposed Sidewalk Patio.
- 14.3 Administrative Fee
 - i) Upon initial application, the applicant shall deposit with the Municipality a fee in the amount of \$250.00, to be used for the preparation of the Encroachment Agreement.

- 14.4 The Municipality shall review the application to ensure the erection, installation, and maintenance of the proposed Sidewalk Patio onto the public sidewalk:
- i) Is consistent with the provisions of the Sidewalk Patio Policy;
 - ii) Does not interfere with the Municipality's intent and purpose of the municipal sidewalk;
 - iii) Does not create an unsafe condition;
 - iv) Does not create liabilities for which the Municipality cannot assign full responsibility to the owner of the Sidewalk Patio;
 - v) Does not create a situation that is contrary to any Municipal By-law, Policy or Resolution approved by Municipal Council, or any Provincial or Federal regulation or legislation;
 - vi) Does not interfere with work, plans, efforts, or initiatives of the Municipality to maintain municipal sidewalk; or,
 - vii) Does not interfere with any utility or other similar installation located in proximity to the proposed Sidewalk Patio.
- 14.5 Additional documents may be required by the Municipality where applicable.

15.0 Encroachment Agreement

- 15.1 An Encroachment Agreement shall be established.
- 15.2 Authority for the Municipality to enter the Encroachment Agreement shall be through the Clerk.
- 15.3 The Encroachment Agreement shall set out that any damages to the Municipal property shall be invoiced to the owner/occupier and any unpaid invoices shall be applied to the property's taxes.

16.0 Compliance with Alcohol Regulations

- 16.1 Where a Sidewalk Patio includes the service and consumption of alcoholic beverages, the following shall apply:
- i) Licensing by the Alcohol and Gaming Commission of Ontario (AGCO) shall be required, and the regulations prescribed by the AGCO shall be adhered to, unless a higher standard is stipulated by the Municipality. Proof of authorization by AGCO to license the Sidewalk Patio area for the consumption and service of alcoholic beverages shall be supplied by the owner/occupier to the Municipality.
 - ii) The Sidewalk Patio shall be fenced to form a fully enclosed perimeter. Fencing is to be constructed of ornamental iron, steel, or aluminum, and painted black. The minimum height for fencing shall be 1.1 metres (42 inches) to a maximum of 1.2 metres (48 inches). Access to the Sidewalk Patio area shall have a minimum

unobstructed width of 1.5 metres. Fencing shall be located no closer than 6 metres (20 feet) from an intersection and shall be permitted only during the operating season established in this Policy.

17.0 Compliance with Health Regulations:

- 17.1 The owner/occupier of every Sidewalk Patio shall at all times comply with the requirements of the Huron Perth Health Unit and/or the Medical Officer of Health.

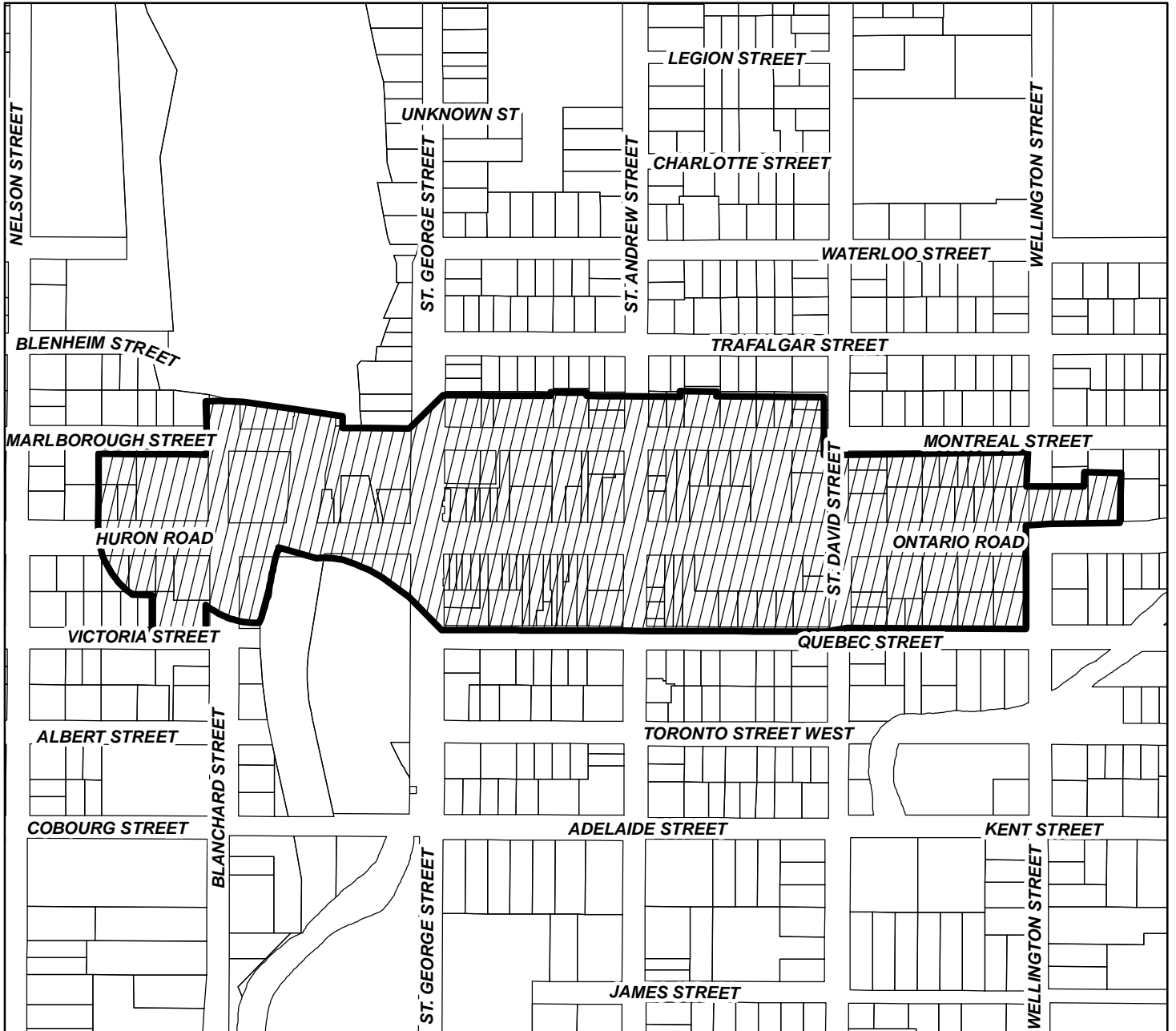
Revision History

Proposed Date of Review:

| Revision | Date | Description of Changes | Requested By |
|-----------------|--------------|-------------------------------------------------------------------------|---------------------|
| 1 | May 21, 2013 | Initial Release | |
| 2 | May 1, 2023 | Amendments to Consolidate Sidewalk Patio and Sidewalk Café Requirements | |

Sidewalk Patio Policy - Appendix A

MUNICIPALITY OF WEST PERT Mitchell Ward

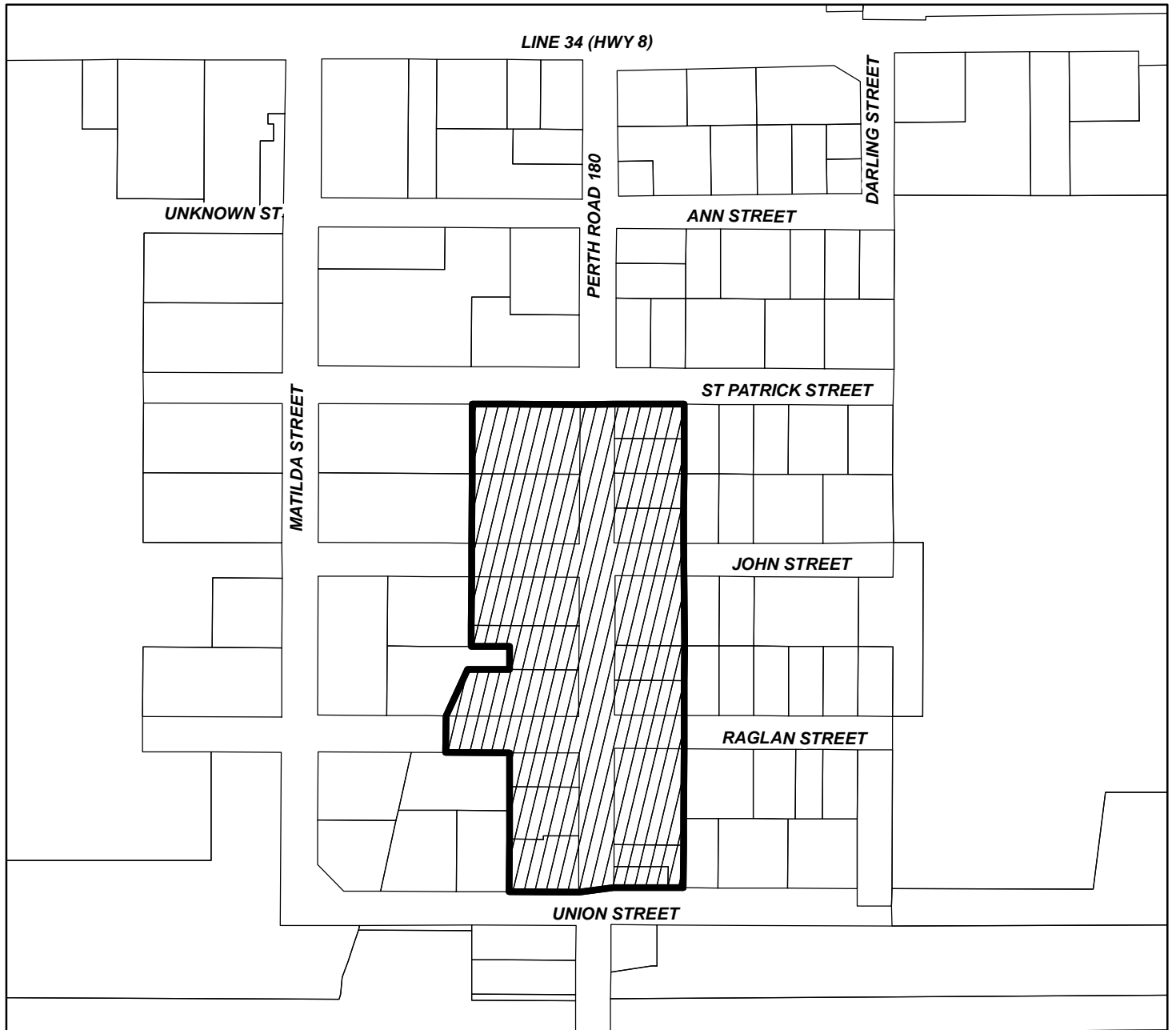


AREA AFFECTED BY POLICY

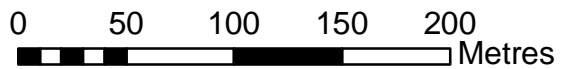


Sidewalk Patio Policy - Appendix B

MUNICIPALITY OF WEST PERTH Hibbert Ward Dublin



 AREA AFFECTED BY POLICY



Sidewalk Patio Policy - Appendix C

**MUNICIPALITY OF WEST PERTH
Logan Ward
Monkton**

Within the Village Settlement Area of Monkton:

No person shall use any area on or over Municipal property, streets, sidewalks, highways or encroach thereon for a Sidewalk Patio or Sidewalk Café, save an except those Municipal property, streets, sidewalks, highways that abut lands zoned “Hamlet/Village Commercial Zone”, as shown on Key Map 3 of Schedule “A” to the Municipality of West Perth’s Comprehensive Zoning By-law No. 100-1998.