

The Corporation of the Municipality of West Perth

By-law Number 079-2010

A by-law to regulate the Displaying of Merchandise on Sidewalks

WHEREAS the *Municipal Act, 2001, S.O. 2001, c.25, S.11* authorizes a municipality to pass by-laws respecting matters within the jurisdiction of highways (which includes sidewalks);

AND WHEREAS the *Municipal Act, 2001, S.O. 2001, c.25, S.130* also authorizes a municipality to regulate matters for purposes related to the health, safety and well-being of its inhabitants;

AND WHEREAS the Council of the Municipality of West Perth wishes to ensure the safe and accessible passage over sidewalks within the Municipality of West Perth;

AND WHEREAS the Council of the Municipality of West Perth deems it in the public interest to permit and regulate the displaying of merchandise on sidewalks;

BE IT THEREFORE ENACTED by the municipal council of the Corporation of the Municipality of West Perth as follows:

1 Definitions

In this by-law:

- (a) “Display area” means an area of the sidewalk used for the exhibition or sale of merchandise where such display area is located adjacent to the façade of a retail establishment and no wider than the width of the storefront, excluding the width of the entrance to the store and excluding any driveway to the property, used in conjunction with and ancillary to the adjacent retail established.
- (b) “Event” means a planned public or social occasion; the social gathering of community members in a particular area for a common purpose for example, a fund-raiser.
- (c) “Façade” means that portion of the front of a building which abuts a street.
- (d) “Merchandise” means goods or wares customarily sold by the retail establishment, but excluding hazardous and flammable materials such as gasoline, oil, antifreeze, kerosene, poisons, pesticides and similar items.
- (e) “Merchant” means an owner or occupant of a retail establishment.
- (f) “Sidewalk” means the concrete surface provided for the use of pedestrians in the public right-of-way, and situated between and extending from any building to the curb of any street.
- (g) “Municipality” means The Corporation of the Municipality of West Perth.
- (h) “Retail Establishment” means a building or part thereof in which goods, merchandise, products, wares, articles, services, or things are offered or kept for sale directly to the public.

2 Regulations

- 2.1 No person shall use any area on or over Municipal property, streets, sidewalks, highways or encroach thereon for the displaying of merchandise on sidewalks, except permitted by the provisions of this by-law. Within the lands shown and or

described in “Schedules A, B and C” of this by-law, no person shall locate any displays on or over Municipal property, streets, sidewalks, highways or encroach thereon, except permitted by the provisions of this by-law.

- 2.2 Merchandise may be displayed within the display area on a sidewalk but in a manner that does not impede the free flow of pedestrian traffic, nor reduce the width of travel area available to pedestrians to less than 1.5 metres where such width is measured from ground to sky. The parking of cars, the view of motorists at intersections, or the removal of snow shall not be impeded by the placement of such displays.
- 2.3 All merchandise located within the display area shall be placed so that the fixtures or devices on which the merchandise is displayed are stable, and free from sharp edges, protrusions, or other features that may be hazardous to the public.
- 2.4 No fixtures or devices on which merchandise is displayed shall be attached to the sidewalk.
- 2.5 No merchandise shall be displayed on any Municipal structure, including but not limited to trees, planters, or light standards.
- 2.6 The merchant is entirely responsible for the safety and protection of any and all merchandise in the display area.
- 2.7 No merchandise shall be displayed in the display areas during the hours of 2:00 a.m. and 6:00 a.m. inclusive.
- 2.8 Notwithstanding the provisions of this by-law, no signage shall be placed except in accordance with the provisions of the Municipality’s Sign By-law.

3 Exceptions

- 3.1 The regulations in this by-law do not apply to:
 - 3.1.1 Goods or merchandise in actual course of receipt, delivery or removal.
 - 3.1.2 Events authorized by resolution or By-law of the Council of the Municipality of West Perth.

4 Offence and Penalty

- 4.1 Any person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine and/or penalty as provided for in the *Provincial Offences Act, R.S.O. 1990, Chapter P.33 as amended*, for each offence and such penalty and/or fine shall be recoverable under the *Provincial Offences Act*.
- 4.2 Where the Municipality’s Chief Building Official, By-law Enforcement Officer or Operation Manager or authorized agent identifies a display area to be unsafe, such Official shall cause the removal the offending display at the Merchant’s expense.

This By-law 079-2010 repeals By-law 069-2004 and amendments thereto.

This By-law shall be effective September 13th, 2010.

Read a first and second time this 13th, day of September 2010.

Seal

Deputy Mayor Gerry Kehl

Clerk Susan Cronin

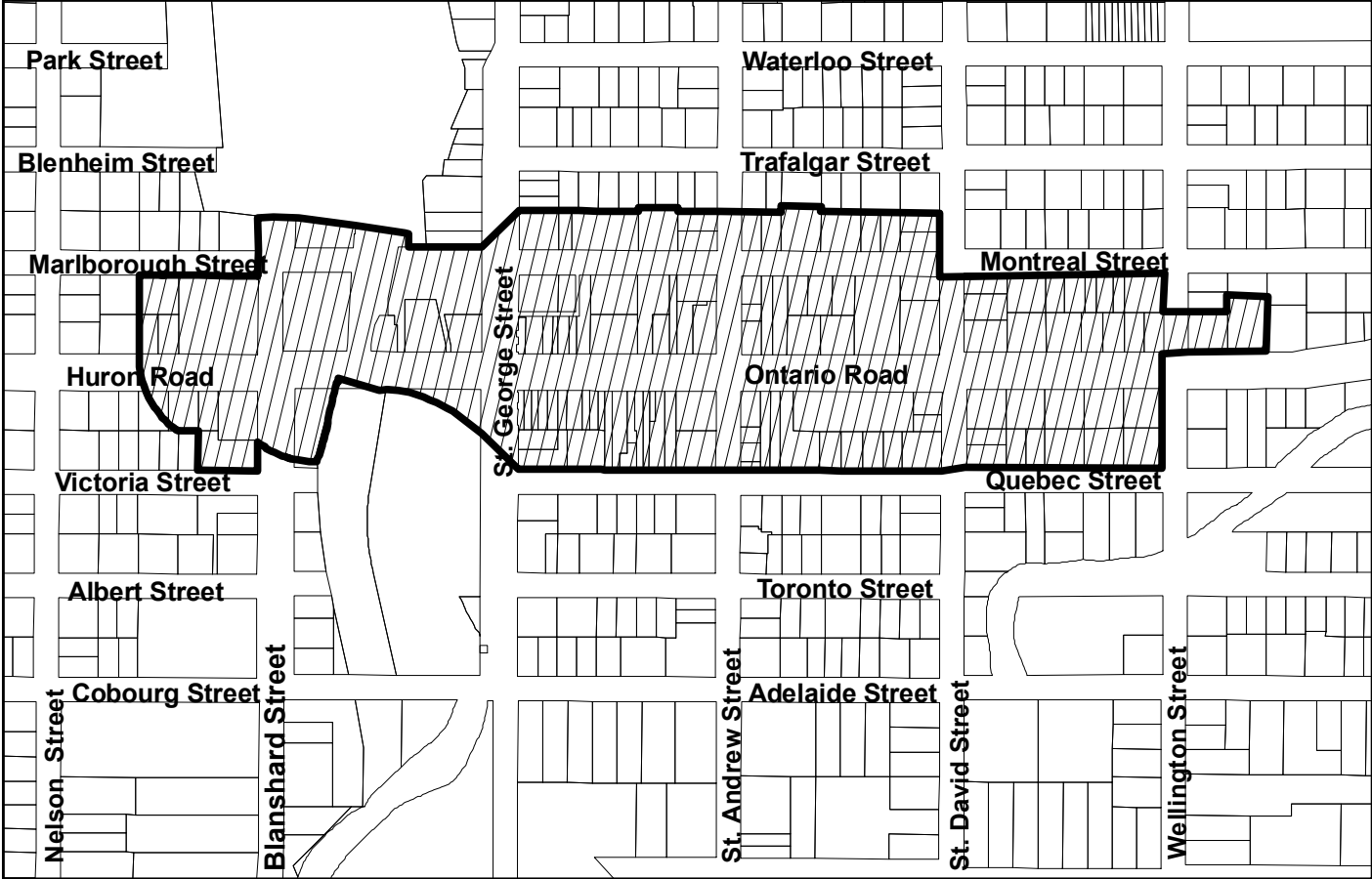
Read a third and final time and finally passed this 13th, day of September 2010.

Seal

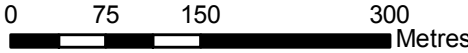
Deputy Mayor Gerry Kehl

Clerk Susan Cronin

**MUNICIPALITY OF WEST PERTH
Mitchell Ward**



 Area Affected By By-law

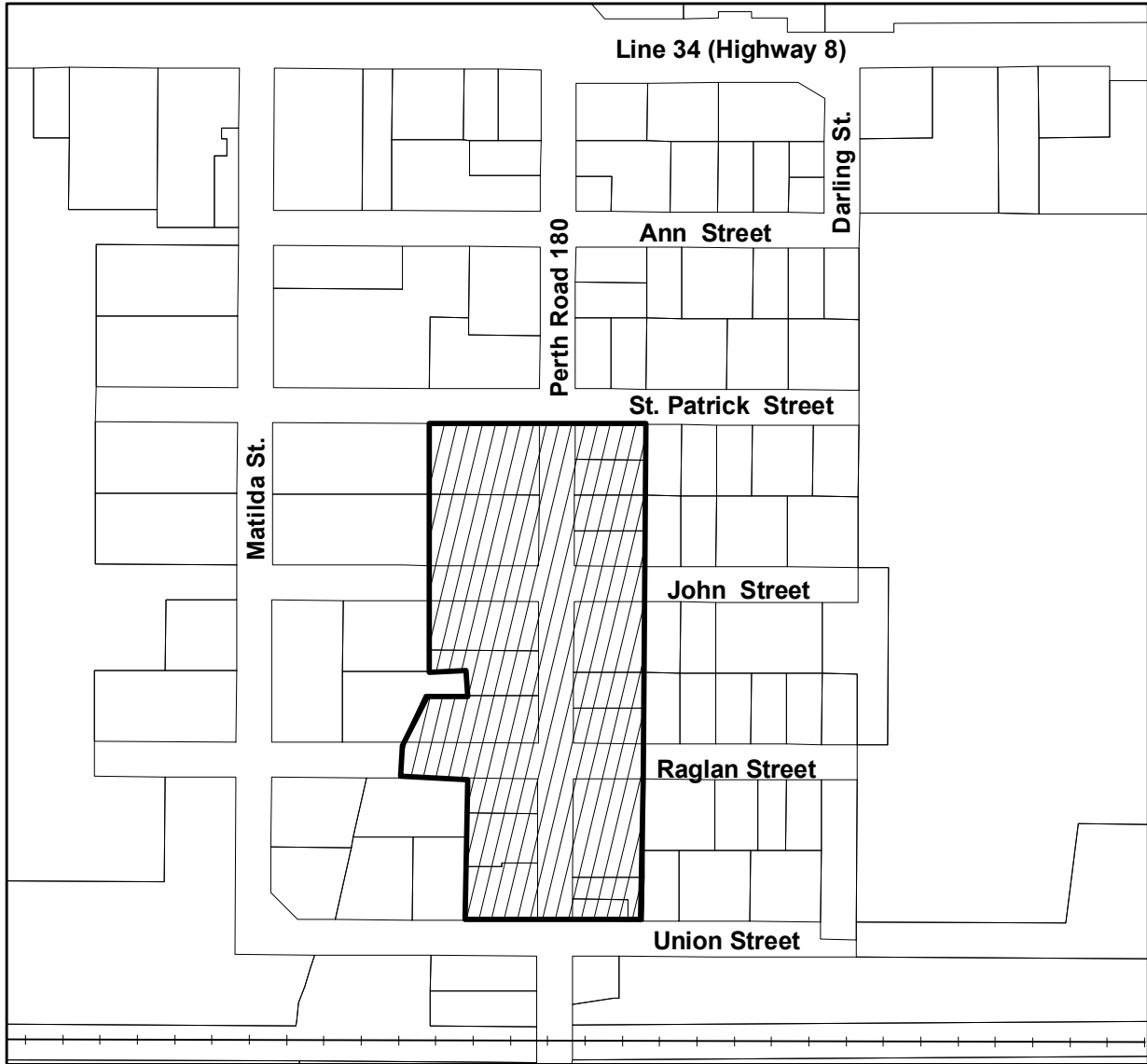


**THIS IS SCHEDULE "A"
TO BY-LAW NO. 079-2010
OF THE MUNICIPALITY OF WEST PERTH
PASSED THIS ___ DAY OF _____, 2010**

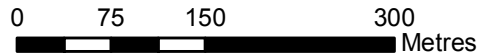
John Van Bakel, Mayor

Susan Cronin, Clerk

MUNICIPALITY OF WEST PERTH
Hibbert Ward
Dublin



Area Affected By Proposed By-Law



**THIS IS SCHEDULE "B"
TO BY-LAW NO. 079 -2010
OF THE MUNICIPALITY OF WEST PERTH
PASSED THIS ___ DAY OF _____, 2010**

John Van Bakel, Mayor

Susan Cronin, Clerk

**MUNICIPALITY OF WEST PERTH
BY-LAW NO. 079-2010
SCHEDULE "C"**

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 the displaying of merchandise on sidewalks, save and except those Municipal property, streets, sidewalks, highways that abuts 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.

PASSED THIS ___ DAY OF _____, 2010

John Van Bakel, Mayor

Susan Cronin, Clerk