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Consolidated Version

Last revised on April 28, 2028

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| 2026-042 (original) | April 27, 2026 | - |
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Consolidated for Convenience Only

This is a consolidation copy of a City of Owen Sound By-law for convenience and information. While every effort is made to ensure the accuracy of this by-law, it is not an official version or a legal document. The original by-law should be consulted for all interpretations and applications on this subject. For more information or to view by-laws please contact the Clerks Department.

The Corporation of the City of Owen Sound

By-law No. 2026-042

A By-law to licence, regulate and govern the construction, erection and operation of Street Furniture and Sidewalk Patios on Public Lands

WHEREAS subsection 5(3) of the *Municipal Act, 2001* S.O. 2001, c. 25 (the "Municipal Act") provides that a municipal power shall be exercised by by-law; and

WHEREAS subsection 11(2) of the Municipal Act authorizes the Council of The Corporation of the City of Owen Sound (the "City") to pass by-laws with respect to the public assets of the Town, for the economic, social and environmental well-being of the Town, and for the health, safety and well-being of persons; and

WHEREAS section 11(3) of the Municipal Act authorizes City Council to pass by-laws respecting the following spheres of jurisdiction: highways, structures, parking and business licensing;

WHEREAS sections 23.1 to 23.6 of the Municipal Act authorize City Council to delegate its powers and duties under the Municipal Act or any other Act to a person or body, subject to the restrictions set out in the Municipal Act; and

WHEREAS it is the opinion of City Council that the powers and duties being delegated in this by-law are of a minor nature, in accordance with sections 23.2(4) and 23.2(5) of the Municipal Act; and

WHEREAS section 151(1) of the Municipal Act authorizes City Council to provide for a system of licences with respect to a business; and

WHEREAS on April 27, 2026, City Council passed a resolution directing staff to bring forward the subject by-law for approval, in consideration of staff report CS-26-031;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF OWEN SOUND HEREBY ENACTS AS FOLLOWS:

Part I. Short Title, Purpose and Scope

Short Title

1. The by-law may be referred to as the "Patio Permit By-law" and, when so referenced, includes all future amendments, unless otherwise specified.

Purpose

2. This by-law has been enacted to:
 - a. encourage the accommodation of uses, such as restaurants, cafes, and entertainment facilities, and the provision of street furniture and amenities, that create an attractive, pedestrian friendly built-environment, particularly within the City's River District and Harbour area; and
 - b. ensure that universal accessibility, public safety, and the streetscape experience are enhanced and not negatively impacted by the introduction of a patio on public lands.

Scope

3. This by-law applies to the City of Owen Sound in its entirety. However, for clarity, patios are only permitted where the City's Zoning By-law would permit a commercial use and where there is an area on adjacent public lands that can meet the requirements of this by-law.

Part II. Interpretation**Headings**

4. The division of this by-law into parts and the insertion of headings are for convenient reference only and do not affect the interpretation of the by-law.

Gender and Number

5. In this by-law, unless the contrary intention is indicated, words used in the singular include the plural and words imparting a gender include all genders, where applicable.

References to Applicable Law

6. All references to applicable law are ambulatory and apply as amended, extended or re-enacted from time to time.

Schedules

7. Schedule 'A' – Design Requirements is attached to and forms part of this by-law.

Severability

8. In the event any provisions of this by-law are deemed invalid or void, in whole or in part, by any court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

Definitions

9. For the purposes of this by-law:

"Accessible Route(s)" means a continuous, unobstructed path connecting accessible elements and spaces;

"Cane Detectable" means leading edges that are within a cane sweep area;

"City" means the City of Owen Sound and a reference to the City is a reference to the geographical area or to The Corporation of the City of Owen Sound as the context requires;

"City Manager" means the City Manager of The Corporation of the City of Owen Sound;

"Contiguous to frontage" means the patio space is located directly in front of or adjacent to the building that houses the business for which the patio application was approved;

"Curbside Patio" means a patio located on the exterior edge of the sidewalk, adjacent to the curb, with an Accessible Route located between the building and the patio;

"Curb Lane Patio" means a patio located within a maximum of two (2) on-street parking spaces;

“Director” means the Director of Community Services and Director of Public Works and Engineering, acting jointly, and includes their designates;

“Frontage Patio” means a patio located immediately adjacent to the building but extending beyond the front property line onto public lands;

“Patio” means a seasonal structure or installation of street furniture on public lands for commercial use and includes:

- a. A Frontage Patio;
- b. A Curbside Patio; and,
- c. A Curb Lane Patio;

“Person” means an individual, corporation, partnership or association, and their heirs, executors, assignees and administrators;

“Permit” means a permit for a patio issued under this by-law and may be referred to as a Patio Permit;

“Public lands” means any property under the care and control of the City of Owen Sound;

“Officer” means any person authorized by the City to enforce by-laws and includes a Municipal Law Enforcement Officer appointed to enforce the by-laws of the City or a police officer while in the course of their duties;

“Operator” means the person or business applying for a permit or renewal of a permit under this by-law;

“Owner” means the person(s) on title as the owner(s) of a building or parcel of land identified on a parcel register from the Land Registry Office;

“Street Furniture” means those objects and pieces of equipment that work to enrich the utility and aesthetic value of the street and includes, but is not limited to, benches, flowerpots, retail or merchandise tables, and patio furniture; and

“Tactile Tape” means a textured, adhesive strip applied to the surface of the sidewalk and perimeter of a Patio that is yellow or white in colour, to provide touch-based guidance or warning cues, especially for people with visual impairments.

Part III. Administration

Delegation

10. The administration of this by-law is assigned to the Director who will generally perform the administrative functions conferred upon them by this by-law, and without limitation may:
 - a. delegate any responsibilities to an employee of the City, conferred to the Director under this by-law;
 - b. receive and process all applications for patio permits and renewals of patio permits under this by-law;
 - c. issue patio permits and renew patio permits in accordance with the provisions of this by-law;

- d. impose conditions on patio permits at the time of issuance, renewal or any other time during the patio season, in accordance with this by-law and as necessary to give effect to this by-law;
- e. execute patio agreements between operators and the City required in fulfillment of a condition of a patio permit or renewal, in accordance with this by-law; and
- f. refuse to issue or renew a patio permit, or revoke or suspend a patio permit, in accordance with this by-law.

Part IV. Permit Required

Permit required

11. No person shall construct, erect or operate a patio, or cause a patio to be constructed, erected or operated, or authorize a patio to be constructed, erected, or operated, without first obtaining a permit in accordance with the provisions of this by-law.

Part V. Application for Permit

Submitting an application

12. The Director will receive, process, and review all applications for patio permits and renewals under this by-law.
13. No Operator is entitled to apply for a permit or to renew a permit if in the year prior to the application, the Operator had their permit revoked by the Director.
14. Between January 1 and April 1 of each year, an Operator shall file an application for a patio permit in such form and detail as the Director may prescribe from time to time, which application shall include, at the Operator's cost, the following:
 - a. A completed application form that includes the name, telephone number, and email address of the Operator and owner, if not the same person, along with the address of the proposed patio.
 - b. A detailed site plan and elevation drawings, which may be a hand drawn sketch, submitted in .jpeg or .pdf format provided it is fully dimensioned, showing:
 - i. the location and dimensions of the proposed patio;
 - ii. the premises to which the patio will be appurtenant;
 - iii. the location of all relevant lot lines; and
 - iv. all existing surface features located between the premises and the roadway.
 - c. A description of the proposed patio and of all materials to be used in the construction and operation of the patio, including all appurtenances such as:
 - i. canopies, umbrellas, and/or awnings;
 - ii. platforms;
 - iii. railings and/or fencing;
 - iv. any proposed landscaping, such as ground or hanging planter boxes;

- v. lighting;
 - vi. signage;
 - vii. waste storage;
 - viii. heaters;
 - ix. furniture, including, without limitation, tables, chairs, picnic tables or benches, and including the proposed material and colour of such furniture; and
 - x. roadside barriers where a Curb Lane Patio is proposed;
- d. photos of the proposed patio location and existing streetscape;
 - e. a copy of the Operator's business licence;
 - f. a copy of the Operator's liquor licence, if applicable;
 - g. where a Curb Lane Patio is proposed, a Traffic Control Plan for the installation and removal of roadside barriers in accordance with *Ontario Traffic Manual Book 7*; and
 - h. any other information required by the Director to approve the application and determine compliance with this by-law.
15. Where a patio permit is approved by the Director, the Operator shall enter into a patio agreement with the City, which may specify conditions for set-up and operation of the patio, among other matters. The term of the patio agreement shall be a minimum of one (1) year and may be up to a maximum of five (5) years, at the sole discretion of the Director.
16. The Operator shall provide evidence of insurance, satisfactory to the Director and in accordance with the provisions of subsection 37.b. of this by-law, prior to the issuance of a patio permit.
17. An Operator shall apply for a patio permit for each season that the applicant wishes to place a patio within the municipal right-of-way.
18. Notwithstanding section 17 above, the Director will consider approval of patio permit renewals, where there is no proposed change to the patio layout, including any appurtenances thereto, and a patio agreement has been executed with the City and remains in force and effect.
19. A patio permit that is not renewed prior to the end date specified in the patio agreement with the City is no longer valid and requires a new application.
20. An application for a patio permit renewal pursuant to section 18 of this by-law shall be submitted between January 1 and April 1 of each year, and accompanied by the following, at the Operator's cost:
- a. proof of insurance, satisfactory to the Director and in accordance with the provisions of subsection 37(b) of this by-law;
 - b. a copy of the Operator's liquor licence, if applicable; and
 - c. for a Curb Lane Patio, a Traffic Control Plan for the installation and removal of roadside barriers in accordance with *Ontario Traffic Manual Book 7*.
21. Upon submission of a complete patio permit application or renewal by the Operator, as the case may be, the Director will calculate the required fees based on the patio type and provide an invoice to the Operator. The

Operator shall pay the fees owing in full by April 15 of each year otherwise, the patio permit will be refused.

22. The application fee is non-refundable regardless of whether or not the Director approves a permit and regardless of whether or not the Director imposes any conditions on the permit.
23. Patio permit applications and renewals are required to be submitted via the City's online permitting system in effect at the time of the application or renewal.
24. The Director shall request comments from the City's Development Team, including Planning, Building, and Engineering Services staff, as well as City Fire Prevention and Police Services, prior to making a determination on a new patio application or renewal, as the case may be.
25. The City's Development Team, including Planning, Building, and Engineering Services staff, as well as City Fire Prevention and Police Services are responsible for reviewing applications and providing feedback on any revisions required prior to approval. To determine approval, City staff will evaluate an application based on:
 - a. compliance with the requirements of this by-law;
 - b. suitability of the location and any impacts on existing services;
 - c. accessibility of the patio and surrounding area;
 - d. safety of the patio set-up, location, and materials; and
 - e. design quality and functionality of the patio layout.
26. The submission of an application for a permit, including the related fee(s) does not entitle an Operator to construct, erect, or operate a patio. The Operator is only entitled to construct, erect, and operate a patio once the permit has been issued under the provisions of this by-law, including the execution of a patio agreement pursuant to section 15, and a satisfactory inspection by the City's Building Division in accordance with section 37.d.

Issuing licences

27. When an application for a patio or renewal is made in accordance with Part V of this by-law and the Operator meets all the requirements of this by-law, the Director will issue a permit.
28. The permit may include one or more conditions to be fulfilled by the Operator, at the discretion of the Director.

Part VI. Refusal, Suspension, Revocation

Grounds

29. The Director may refuse to issue or renew or may suspend or revoke a patio permit where:
 - a. the Operator has failed to pay the required fees, pursuant to section 21 of this by-law;
 - b. an application or other document provided to the Director by an Operator contains a false statement or false information;
 - c. the Operator's existing permit has been suspended or revoked pursuant to this by-law;

- d. the Operator is indebted to the City in respect of fines, penalties, judgements, outstanding property taxes, or any other amounts owing;
 - e. the Operator, or the property to which the patio is accessory, is subject to an order, or orders made pursuant to applicable law, including but not limited to a City by-law, the Building Code Act, the Fire Protection and Prevention Act, and the Health Protection and Promotion Act;
 - f. the Operator does not comply with any of the requirements of:
 - i. this by-law and all other applicable City laws or by-laws including, but not limited to, the City's Noise Bylaw, Encroachment By-law, Zoning By-law, Property Standards By-law, and Waste Management By-law;
 - ii. the Alcohol and Gaming Commission of Ontario, as applicable; or
 - iii. any other federal or provincial laws affecting the operation of the patio;
 - g. the Operator has three (3) or more contraventions of City laws or by-laws within a six-month period or four (4) or more contraventions of City laws or by-laws within a calendar year;
 - h. the permit was issued in error or granted based on incorrect or false information; or
 - i. the Director becomes aware of a fact or facts that, if known at the time of the application, may have resulted in the Director refusing to issue the permit.
30. Where the Operator's insurance policy expires, is cancelled, or is otherwise terminated, the applicable patio permit and patio agreement are automatically suspended effective on the date of such expiration, cancellation or termination and remain suspended until such insurance has been reinstated.

Notice

31. Where the Director refuses to issue or renew a patio permit or where the Director elects to suspend or revoke a permit:
- a. the Director will send written notice advising the Operator of the refusal, suspension or revocation of the permit;
 - b. the written notice will be sent in accordance with the notice provisions set out in section 50 of this by-law;
 - c. the written notice will:
 - i. set out the grounds for the refusal, suspension or revocation;
 - ii. be signed;
 - iii. indicate the final date and time by which the applicant or licensee may appeal the decision of the Director and the method for doing so; and
 - iv. indicate the appeals fee, as set out in the City's Fees and Charges By-law.

Danger to health or safety

32. Notwithstanding section 31 above, the Director, if satisfied that the continuation of a permit poses a danger to the health or safety of any person, may for the time and on such conditions as are considered appropriate, suspend a permit for not more than fourteen (14) days without a hearing. If, after the suspension period has elapsed, the Director is satisfied that the continuation of a permit will continue to pose a danger to the health or safety of any person, they may further suspend for not more than fourteen (14) days or revoke the permit.

Appeals

33. An Operator who has been refused a permit in accordance with section 29 may appeal the refusal to the City Manager by submitting a request for review to the office of the City Manager within fourteen (14) days of the refusal.
34. Where a permit is refused, the Director will advise the applicant of the appeal option and provide further information on the process in effect at the time of the refusal.
35. The decision of the City Manager issued under this by-law is final.

Part VII. Operation Requirements**Timing**

36. No person may construct, erect or operate a patio or allow a patio to be constructed, erected or operated between November 1 of any year and April 30 of the following year.

Responsibilities

37. Every Operator shall:
- a. construct, erect, and operate their patio in compliance with applicable laws, including but not limited to:
 - i. the Health Protection and Promotion Act;
 - ii. the Fire Protection and Prevention Act;
 - iii. the Building Code Act;
 - iv. the Liquor Licence and Control Act;
 - v. the Cannabis Control Act;
 - vi. the Smoke Free Ontario Act;
 - vii. the City's:
 1. Fireworks By-law;
 2. Noise By-law;
 3. Nuisance By-law;
 4. Property Standards By-law;
 5. Snow Removal By-law;
 6. Unauthorized Parking By-law;
 7. Waste Management By-law; and
 8. Zoning By-law;

- b. carry a minimum of five-million dollars (\$5,000,000) liability insurance for the operation of their patio, indemnifying the City as the owner of the public lands on which the patio is situated;
 - c. construct, erect and operate their patio in accordance with the associated patio agreement, where executed with the City;
 - d. obtain a satisfactory inspection from the Chief Building Official following patio installation, and prior to commencing operation;
 - e. keep their patio clean and in good repair at all times with ongoing and proactive maintenance;
 - f. return the public lands on which their patio is placed to its original condition after the season. All patio objects including, but not limited to, platforms, fencing, roadside barriers, and furniture, must be removed from public lands at the end of the season and stored elsewhere;
 - g. construct, erect, and operate their patio in a manner that is contiguous to the business' frontage; and
 - h. clean and maintain the public land under and directly adjacent to their patio, including, without limitation, the sidewalk, roadway, and gutter that may be inaccessible to City equipment due to the patios' location.
38. Notwithstanding subsection 37(a) of this by-law, the City's Temporary Encroachment By-law does not apply to a patio, so long as the requirements of this by-law are met, including that a patio agreement has been executed with the City.
39. Where, at any time, there is a change in, or relating to, any of the information or documents required to be filed with an application under this by-law, every Operator must report the change in writing to the Director no later than fifteen (15) days following the change. Examples of information that may change include:
- a. contact information;
 - b. patio layout or configuration;
 - c. fire safety measures; or
 - d. insurance.

General Prohibitions

40. No Operator or Owner may construct, erect, or operate, or permit the construction, erection, or operation of a patio:
- a. without a valid patio permit issued under this by-law;
 - b. without a patio agreement executed with the City;
 - c. while their patio permit is under suspension or revoked;
 - d. except in accordance with the regulations of this by-law, including Schedule 'A' – Design Requirements; and
 - e. except in accordance with the terms and conditions of the applicable patio permit and patio agreement, as the case may be.
41. No Operator may:

- a. transfer or assign a patio permit, without the express consent of the Director;
- b. alter a patio's design or layout contrary to the conditions of the patio permit or patio agreement; or
- c. obtain a patio permit by providing false or incorrect information.

Part VIII. Inspections, Orders and Notice

Inspections

42. The Director or an officer may at any reasonable time enter upon and inspect the land of any person to ensure that the provisions of this by-law are complied with.
43. For the purposes of conducting an inspection pursuant to this by-law, an officer may:
 - a. require the production for inspection of documents or things relevant to the inspection;
 - b. inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - c. require information from any person concerning a matter related to the inspection; and
 - d. alone, or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of inspection.
44. The Director or an officer will provide a receipt for any document or thing removed under subsection 43(b) and the document or thing will be promptly returned after the copies or extracts are made.

Obstruction

45. No person shall prevent, hinder, or obstruct, or attempt to prevent, hinder or obstruct anyone who is lawfully exercising a power or performing a duty under this by-law.
46. Any person who has been alleged to have contravened any of the provisions of this by-law must identify themselves to the Director or officer upon request. Failure to do so will result in the person being deemed to have obstructed or hindered the Director or officer in the execution of their duties.

Orders

47. An officer may make an order requiring the person who contravened this by-law, or who caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred, to discontinue the contravening activity or to do work to correct the contravention.
48. An order made pursuant to section 47 must:
 - a. include the reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred;
 - b. include the date by which there must be compliance with the order and/or the work to be done and the date by which the work must be done;

- c. direct that if the thing or matter that is required to be done is not completed by the time set out in subsection 48(b), the matter or thing will be done by the City at the person's expense and the City may recover the costs of doing the matter or thing from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

49. Every person must comply with an order made pursuant to section 47.

Notice

50. Any notice or order issued pursuant to this by-law may be given in writing in any of the following ways and is effective:
- a. on the date on which a copy is delivered to the person to whom it is addressed;
 - b. on the fifth day after a copy is sent by mail to the person's last known address;
 - c. upon the sending of a copy by e-mail transmission to the person's last known email address; or
 - d. posting on the premises, on the date of posting.
51. For the purpose of section 50, a person's last known address and last known email address are deemed to include information on the last revised assessment roll and on an application submitted pursuant to this by-law.

Part IX. Offence and Penalty

52. Every person who contravenes any provision of this by-law, or fails to comply with an order issued pursuant to this by-law, is guilty of an offence and liable to a fine of:
- a. on a first offence, no more than \$50,000; and
 - b. on a second offence and each subsequent offence, not more than \$100,000,
- and such other penalties as provided for in the Provincial Offences Act and the Municipal Act.
53. Where a corporation contravenes any provision of this by-law or fails to comply with an order issued pursuant to this by-law, and every director or officer of a corporation who commits, concurs, assents to, or acquiesces to such contravention, is guilty of an offence and is liable to a fine of
- a. on a first offence, no more than \$50,000; and
 - b. on a second offence and each subsequent offence, not more than \$100,000,
- and such other penalties, as provided for in the Provincial Offences Act and the Municipal Act.
54. In addition to any penalty otherwise provided for in this by-law, every person convicted of an offence under this by-law is liable to a fine of not more than \$10,000 for each day during which the offence continues.
55. Upon conviction any penalty imposed under this by-law may be collected under the authority of the Provincial Offences Act.
56. If a person is convicted of an offence for contravening a provision of this by-law or an order made under this by-law, the court in which the

conviction has been entered, and any court of competent jurisdiction thereafter, may order the person to correct the contravention in such manner and within such period as the court considers appropriate.

Part X. Effective Date

- 57. This by-law comes into full force and effect on May 1, 2026 at which time all by-laws, policies or resolutions that are inconsistent with the provisions of this by-law are hereby repealed or rescinded insofar as it is necessary to give effect to the provisions of this by-law.

FINALLY PASSED AND ENACTED this 27 day of April, 2026.

Signature on file _____
Mayor Ian C. Boddy

Signature on file _____
Briana M. Bloomfield, City Clerk

**Schedule 'A' to By-law No. 2026-042:
Design Requirements**

Layout

1. A Frontage Patio, Curbside Patio, and a Curb Lane Patio, as defined by this by-law, are permitted on public lands.
2. A Curb Lane Patio is permitted within a maximum of two (2) on-street parking spaces or a curb lane and is only permitted on roadways with:
 - a. A speed limit of 50 kilometres per hour, or less.
 - b. No more than two lanes of traffic (one lane in each direction or two lanes in the same direction).
 - c. On-street parking in the form of parking laybys or parking lanes.
3. The width of the public lands between the building's face and the edge of the curb must be a minimum of 3 metres, before a Frontage Patio or a Curbside Patio will be considered.
4. A Curbside Patio will only be permitted where adjacent to on-street parking.
5. A Curbside Patio shall be setback 0.5 metres from the edge of the curb, unless adjacent to a Curb Lane Patio.
6. An Operator shall design and maintain street furniture and patio layouts to provide for a sufficient Accessible Route on the sidewalk to accommodate a clear, unobstructed width as follows:
 - a. On 2nd Avenue East, between 7th Street East and 10th Street East: 1.8 metres.
 - b. On 8th Street East, between 1st Avenue East and 3rd Avenue East: 1.5 metres.
 - c. On 9th Street East, between 1st Avenue East and 3rd Avenue East: 1.5 metres.
 - d. All other locations: 1.8 metres
7. The Accessible Route required by Section 6 of Schedule A of this by-law shall be maintained in a straight line within a street block and be located at least 0.5 metres from the edge of the curb.
8. Patio layouts that propose a pedestrian clearway into a parking or curb lane are prohibited.
9. A Frontage Patio and Curbside Patio are not permitted to encroach upon the frontage of neighbouring properties without explicit consent.
10. Permission to utilize on-street parking spaces in front of neighbouring properties is not required for a Curb Lane Patio, as long as the requirements of this by-law are met.
11. City street furniture including, but not limited to, benches, trees, bollards, or poles, must be kept free and clear from all encumbrances and access must be maintained to hanging planters and other horticultural installations adjacent to the patio area.

Platforms

12. A Curb Lane Patio, as defined by this by-law, requires the installation of a platform to bring the patio surface at grade with the sidewalk.
13. All platforms shall:
 - a. Be firm, flat, stable, and have a non-slip, level surface with a difference in elevation of no more than six (6) millimetres.
 - b. Be constructed of composite, metal, or wood decking material.
 - c. Have spaces between decking no more than one (1) centimetre in width, so as to not allow canes, walkers, wheels or other mobility assistance devices from becoming lodged or stuck between them.
 - d. Have entrances from the sidewalk that are a minimum of 1.2 metres in width.
 - e. Have fencing installed along the perimeter, in accordance with the requirements of Section 18 to 22 of Schedule A of this by-law, where there is a change in elevation between the adjacent surface.
 - f. Not obstruct stormwater flows or block stormwater drains. The Operator shall be responsible for clearance of any debris and overall maintenance to ensure free flow.
 - g. Not be affixed to the sidewalk, road, or curb edge with screws, bolts, adhesives, or any other materials.

Roadside Barriers

14. A Curb Lane Patio requires the installation of roadside barriers to mitigate the risk of an errant vehicle striking either a pedestrian, restaurant patrons seated at tables, or restaurant staff serving patrons.
15. Roadside barriers are required to be provided and installed in the City road allowance at the expense of the Operator.
16. Roadside barrier installation and removal are required to be completed by a qualified contractor trained in the Ontario Traffic Manual Book 7.
17. Roadside barriers shall:
 - a. Be placed between 25 and 45 degrees upstream of the limits of a Curb Lane Patio to protect from lateral impact.
 - b. Be installed entirely within the limits of on-street parking spaces and shall not encroach into any driving lane.
 - c. Be installed according to the manufacturer's specifications.
 - d. Be a minimum of TL-1 MASH (Manual for Assessing Safety Hardware) tested, in accordance with Ontario Traffic Manual Book 7. TL-2 and TL-3 MASH tested barriers may also be accepted.
 - e. Be equipped with an appropriate amount of retroreflective material to provide adequate daytime and night-time visibility.

Fencing

18. Where possible, the requirement for fencing shall be minimized to reduce visual clutter.
19. A Frontage Patio and/or a Curbside Patio consisting of less than 15 tables are not required to have fencing however, the perimeter of the patio area

is required to be delineated with tactile tape, as defined by this by-law, for the benefit of the visually impaired.

20. The Operator shall comply with all requirements of the Alcohol and Gaming Commission of Ontario as it relates to fencing of a licensed patio area.
21. A Curb Lane Patio is required to have fencing, regardless of whether the patio is licensed to serve alcohol or not.
22. Where fencing is required, the following requirements shall be met:
 - a. Fencing must have a minimum height of 0.9 metres and a maximum height of 1.2 metres from the surface of the patio.
 - b. Patios with fencing are required to have an open, unobstructed entrance from the sidewalk that is a minimum of 1.2 metres wide. The patio entrance shall align with the entrance of the applicable business, where possible. No appurtenances of the patio including, but not limited to, furniture, host stands, menu boards, or umbrellas, are permitted to impede the entrance such that the clear width is less than 1.2 metres.
 - c. Fencing is not permitted to encroach within any portion of any Accessible Route, as defined by this by-law. Fencing adjacent to the Accessible Route is required to have a solid, cane-detectable base, spaced no more than 0.3 metres apart and shall have a colour contrast to the sidewalk to make it easily identifiable to pedestrians.
 - d. Fencing shall be constructed of aluminum, steel, wrought iron, or other solid material and shall consist of a dark or neutral colour.
 - e. The use of chain-link, plastic, or vinyl fencing is prohibited.
 - f. Fencing shall be open and transparent to maintain visibility from the street.
 - g. Fencing shall be free of jagged edges and other safety threats brought on by poor design or construction.
 - h. Fencing must be removable, free-standing, and self-supporting with appropriate weights. Fencing required for a Curb Lane Patio is permitted to be secured to a platform required by Section 12 to 13 of Schedule A of this by-law. Any stability measures must not damage public property, must not be designed to penetrate the surface of the sidewalk or street and must be security without endangering any underground utilities.
 - i. Fencing is not permitted to obstruct vehicular or pedestrian sightlines, fire routes, or fire hydrants, and is not permitted to obstruct or be attached to any City street furniture including, but not limited to, trees, benches, or light posts.

Sightlines

23. Street furniture or a patio, including any appurtenances thereto, shall not obstruct vehicular or pedestrian sightlines, visibility, or movements.
24. No portion of street furniture or a patio shall obstruct the five metre by five metre sightline triangle at City street intersections or a three metre by three metre sightline triangle at private vehicular driveway entrances.
25. A Curbside Patio and/or a Curb Lane Patio are not permitted within five (5) metres of an intersection.

Furniture

26. All patio furniture, including fencing, shall be made of durable, weather resistant materials. Composite, metal, painted or stained wood, or other durable material to the satisfaction of the Director, is required.
27. Plastic, vinyl, and pressure treated wood furniture is prohibited.
28. Patio furniture, including, but not limited to, tables, chairs, host stands, and umbrellas are not permitted to encroach into any portion of an Accessible Route or obstruct a building or patio entrance.

Sources of Shade

29. The use of retractable awnings installed on the first storey of buildings is permitted to provide shade to Frontage Patios and Curbside Patios.
30. Awnings shall:
 - a. Be installed to have a minimum height of 2.4 metres above the walking surface.
 - b. Not conflict with trees or other City street furniture within the boulevard.
 - c. Be flame-retardant in accordance with the requirements of the Ontario Fire Code, where a fabric awning is proposed.
31. The installation of an awning requires a Building Permit from the City's Chief Building Official in accordance with the requirements of the Ontario Building Code.
32. Umbrellas and tents are permitted appurtenant to a patio as a source of shade.
33. Tents must be sized 10 square metres or less. If more than one tent is installed, they shall be 3 metres apart from each other, including from neighbouring establishments tents. Tents must not be closed on more than two sides. Abutting a building constitutes a closed side.
34. Umbrellas and tents must:
 - a. Stand at least 2.1 metres above the walking surface.
 - b. Be flame-retardant and approved by the City's Fire Prevention Officer.
 - c. Not encroach into any portion of an Accessible Route or obstruct a building or patio entrance.
 - d. Be properly weighed down to prevent being blown over by wind. Any stability measures must not damage public property, must not be designed to penetrate the surface of the sidewalk or street, and must be secured without endangering any underground utilities.
 - e. Be removed during inclement weather or high winds so as not to create a safety hazard.
 - f. Not obstruct sightlines for pedestrians, cyclists, or motorists.
35. Posts and beams and/or a gazebo, pergola, trellis roof, or other similar type of roof construction may be permitted as part of a proposed patio, where indicated as part of a patio application pursuant to Part V of this by-law, and subject to the requirements of the Ontario Building Code.

36. Except for pre-manufactured tents described above, tarps or similar roofing material are prohibited.

Fire Safety

37. A minimum 1.8 metres clearance from fire department connections and fire hydrants must be maintained on a patio.
38. Fire hydrants and fire department connections must always be visible from the street and accessible by Fire Services.
39. If a patio is longer than 15 metres, emergency access points through the patio may be required by the City Fire Prevention Office. Fire routes must not be obscured by a patio.

Heaters

40. All Patio flames and/or heaters, per the Ontario Fire Code, must meet the requirements of Technical Standards and Safety Authority, be assembled in accordance with the device's manufacturer's specifications and installation in accordance with the same, which encompasses locations and distances to combustibles.
41. If use of propane and other flammable gases in cylinders on the Patio is exercised, the Operator shall:
- a. Not store any cylinders indoors.
 - b. Store cylinders in lockable, non-combustible cabinets or cages that are designed for such storage.
 - c. Not store cylinders on sidewalk or any public thoroughfare.
 - d. Store cylinders at least 0.9 metres from any building opening and 3.05 metres from any building's mechanical air intake; and,
 - e. Store propane cylinders 0.9 metres from other compressed gases.
42. No open flames are permitted where a fabric structure including, but not limited to, an awning, tent, or umbrella, is installed appurtenant to a patio.

Waste Storage

43. Operators shall provide a minimum of one (1) garbage receptacle for patrons, the size and location of which shall be indicated on the Site Plan required as part of a patio permit application, pursuant to Part V of this by-law.
44. Waste storage, collection, and the use of garbage bag tags shall be in accordance with the City's Waste Management By-law.

Signage

45. Menu and sandwich board signage is permitted in accordance with the City's Sign By-law.
46. Signage is not permitted to encroach into any part of an Accessible Route or obstruct a building or patio entrance.
47. Signage is not permitted to be displayed on any patio fencing or furniture.
48. Third-party advertisements within or on any part of the patio, including umbrellas, are prohibited.

Plant Materials

49. Plant materials appurtenant to a patio must be healthy, living, and maintained throughout the season.
50. Planter boxes are permitted to be used as fencing, where the requirements of Section 18 to 22 of Schedule A of this by-law are met.
51. Plant materials may be affixed to fencing, provided they do not protrude more than 100 millimetres horizontally from the cane-detectable railing and do not obstruct any portion of an Accessible Route, building or patio entrance, or driving lane.
52. Ground planters may be used within the patio for decoration but shall not exceed 0.5 metres in width and 1.0 metre in height. Planters with plant material shall not exceed 1.2 metres in height.
53. Hanging planters are permitted provide plant material does not extend more than 0.5 metres from the hanging planter box and does not encroach into any portion of an Accessible Route, building or patio entrance, or driving lane.

Lighting

54. Lighting is permitted within a patio, in accordance with the following requirements:
 - a. Lighting features are required to be temporary and comply with all applicable safety standards and code.
 - b. Lights may not exceed 3 metres in height.
 - c. Lighting must be restricted to low voltage (12V system). 120VAC is not permitted.
 - d. Lights and power cables are not permitted to cross any portion of an Accessible Route, building or patio entrance.
 - e. Lighting shall be downward facing, dark sky compliant, and shall not deflect onto neighbouring properties or the City street.
 - f. Lights shall not attach City street furniture including, but not limited to, utility poles, trees, and benches.
 - g. Permission must be granted to the Operator for use of a power source, if the Operator does not own it.

Street Furniture

55. The placement of Street Furniture, as defined by this by-law, on public lands, shall comply with the Operation requirements of Part VII of this by-law and the design requirements set out in Schedule "A" of this by-law.