



TOWN OF FORT ERIE

OUTDOOR PATIOS ON MUNICIPAL LAND POLICY & Application Forms

2014

March, 2014

Community & Development Services Department

The Corporation of the Town of Fort Erie

Municipal Centre
1 Municipal Centre Drive
Fort Erie, Ontario
L2A 2S6



Town of Fort Erie

Outdoor Patios on Municipal Land Policy

Purpose Outdoor Patios on Municipal Land Policy

The information contained in the Outdoor Patios on Municipal Land Policy is intended to provide guidelines to applicants wishing to obtain a permit for an outdoor patio on Municipal Land and assist staff in the review of such applications.

This policy is to establish general provisions which are to be considered to ensure safety, aesthetics and compatibility with adjacent land uses. This policy does not replace any requirements of any other agency, including the Alcohol & Gaming Commission of Ontario (AGCO), Zoning By-law, Ontario Building Code or Fire Code.

Each application will be reviewed on its individual merit, particular conditions and considerations based on location and municipal requirements.

The period of operation of an outdoor patio on municipal lands shall be **May 1 to October 31** of each year, both dates inclusive.

The Town of Fort Erie is committed to providing accessible information and communications to all of our customers. The Town recognizes that people with disabilities often use methods other than standard print to access information. It is the policy of the Town of Fort Erie to provide any correspondence, invoices and other documents in an alternative format upon request.

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1. STANDARD SUBMISSION REQUIREMENTS

1.1. Permit Fees and Deposit

Fees and deposits are established by the Town's Fees & Charges By-Law No. 40-09, as amended. Fees are payable at the time of application submission, deposits are required at the approval stage of the application. (*Refer to current Appendix B*) Outdoor Patio on Municipal Lands Permit fees and deposits are subject to annual review and adjustment. The most current fees and deposits will apply.

A minor patio permit is one where the patio is to be composed of a delineator, tables, chairs and other patio furniture.

A major patio permit is one where the patio is to be composed of temporary decking, delineator, tables, chairs and other patio furniture.

A renewal patio permit is an outdoor patio that is requesting to re-establish the same patio set-up as the previous patio season.

1.2. Required Documentation

- ☐ One (1) completed application forms fully executed
- ☐ Current photos of the area where the patio is proposed from both directions, and from the face of the building to the edge of the existing pavement, if applicable.
- ☐ Copy of the current business licence
- ☐ Insurance Certificate

1.3. Required Drawings

- ☐ **Eight (8)** to scale outdoor patio plans and details of proposed fencing/delineation of the area. The plan at a minimum shall include the following information:
 - ☐ North arrow (the drawing must be oriented to have vertical north line or as closely as possible)
 - ☐ Applicant/Owner's name and address
 - ☐ Project name, date, municipal address
 - ☐ Key plan for site location
 - ☐ Property boundaries, bearings and dimensions
 - ☐ Location of existing buildings/structures
 - ☐ Location of any exterior walkways, stairs, building entrances
 - ☐ Sidewalk width, material and location
 - ☐ Indicate location of on street parking
 - ☐ Location of existing street features (ie. Hydro poles, utility pedestals, fire hydrants, water valves, parking meter, light post, mailboxes, garbage receptacles, bus shelters, vegetation, curbs, etc.)
 - ☐ Location of existing driveways on abutting properties that are within 6 m of the mutual lot line(s)
 - ☐ Proposed location of fencing/delineator for the area and details of the installation/material/height

- ☐ Construction details of any proposed decking or platform
- ☐ Proposed location of tables and chairs (furniture) and other elements to be located in the area

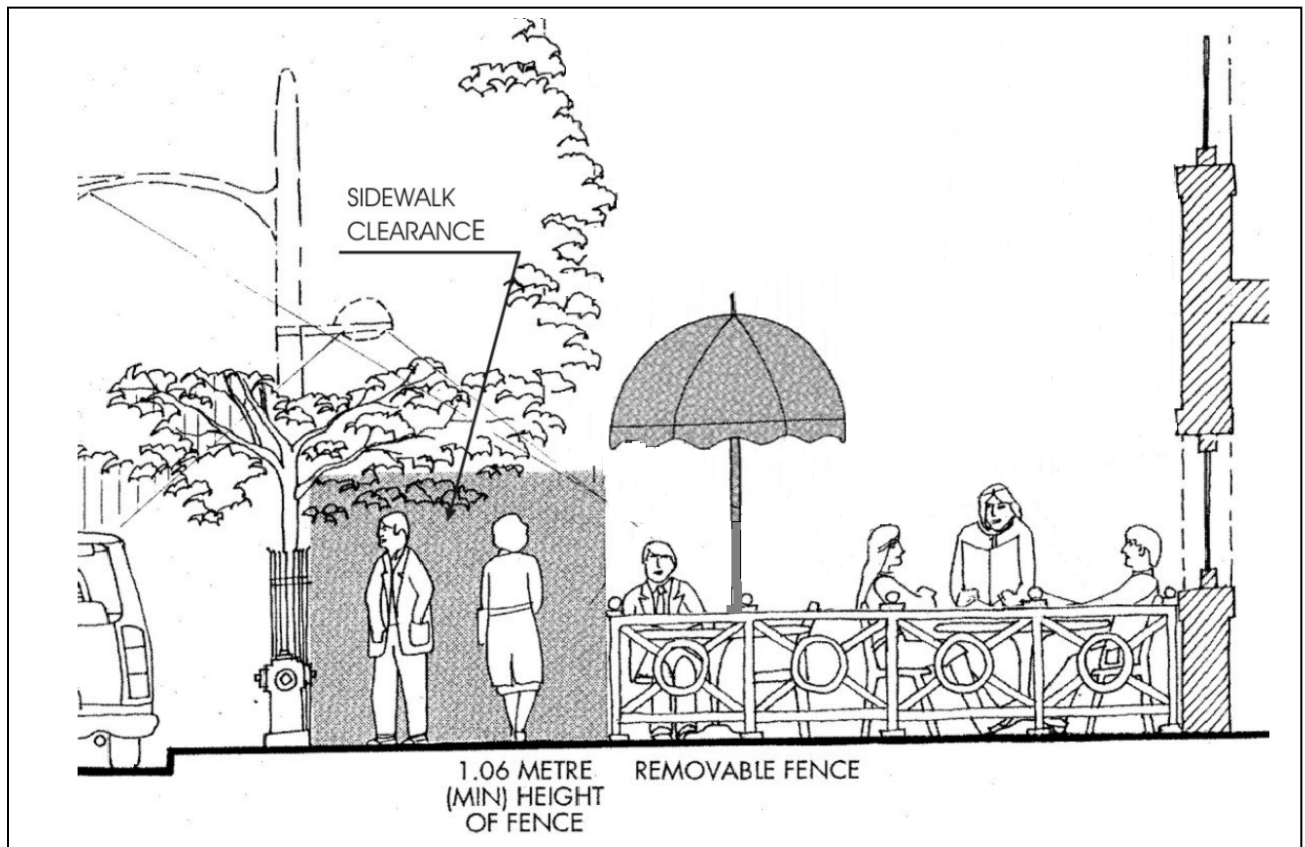
2. GUIDELINES

2.1. General Guidelines

The area required for safe pedestrian movement will be assessed on a site specific basis. In most cases, an unobstructed sidewalk or access path width of a minimum of **1.83 metres (6 feet)** shall be maintained between the perimeter area fence and any site features such as a hydro pole/light, parking meter, vegetation, fire hydrant or curb for clear movement of pedestrians.

The placement of the outdoor patio on Municipal Land will abut the property where the related commercial use is located. The area may be located at the front or exterior side of a commercial use but may not extend past the width of the existing building.

Any construction work that is proposed shall be in accordance with the Ontario Building Code and a Building Permit shall be obtained when required.



2.2 Design Guidelines

(a) Enclosure

- The outdoor patio shall be separated from the area of sidewalk reserved for pedestrian movement through the use of decorative temporary fencing/delineator.
- Decorative temporary fencing/delineator shall incorporate pronounced colour contrast between the fencing and the surrounding environment.
- The fencing/delineator shall be a minimum of 0.75m (2.5ft) in height and shall not be greater than 1.06m (3.5ft) in height measured from the finished grade of the proposed area to the highest point of the barrier.
- The fencing/delineator shall be subject to the requirements of the AGCO if the commercial area is licensed.
- Rain and Mosquito screens shall be permitted.
- Fencing/delineator and screens shall be removable at all times and shall be removed at the end of the permit period.

(b) Ingress/Egress

- The outdoor patio area shall be designed to ensure a minimum emergency evacuation route, in accordance with the standards of the Ontario Building Code and/or fire regulations and shall be available at all times to and from the commercial use. In no case shall this route be less than 1.2 m (3.94 feet).
- The width of any opening in the barrier shall be no greater than 2.0m (6.5ft).
- The outdoor patio area shall not impede any existing barrier-free access to the commercial use.
- The design and placement of the outdoor patio area shall not obstruct public access to another use in the same building, or adversely impact on any adjacent building/property.

(c) Service Areas, Furniture, Elements & Lighting

- Bussing stations, service bars, electrical service and light fixtures, are not permitted on the Municipal Lands.
- If light fixtures are proposed on the building face they should be shown on the drawing and no exterior light should spill into abutting private property or interfere with the public thoroughfare.
- The area is not to be used for cooking of food.
- Decorative garbage containers may be strategically provided within the limits of the outdoor patio.
- Umbrellas together with any support mechanisms shall not extend beyond the patio area or encroach into the pedestrian movement area.
- All permitted furniture/elements shall be appropriately maintained at all times by the permit holder.

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- All furniture/elements shall be removed from Municipal Lands at the end of the permit period.

(d) Deck and Platform Elevation

When the outdoor patio area is elevated above grade on a structure, the height of the deck surface shall be not greater than 0.5 metres above adjacent grade.

- Skirting shall be applied to the exposed sides of the platform to screen structural elements.
- All exposed materials shall be painted or stained to incorporate pronounced colour contrast between the patio and the surrounding environment.
- All decking or platform shall provide for an accessible route onto the deck.
- All decking or platform shall be sectional so as to be easily removable for storage off-site.
- All decking shall be removed outside of the permit period.

(e) Plant Materials

- No municipal trees or vegetation shall be removed or branches pruned to accommodate an outdoor patio area on Municipal Lands.
- Any damage to municipal trees or vegetation shall be replaced at the expense of the applicant.
- Planting of annuals, vines and container grown vegetation is encouraged but shall be totally contained within the outdoor patio area and shall be removed at the end of the permit period.

3. REVIEW AND PERMIT PROCESS

3.1. Processing of Permit Application

(a) Application

The application attached as Appendix A shall be submitted to Community and Development Services, together with the necessary fees, drawings and documentation. The completed application shall be circulated to the Accessibility Advisory Committee and the Technical Planning Advisory Committee (TPAC) which is comprised of Town staff from various municipal departments for review and comment before issuance of a permit.

(b) Permit

The application shall be considered approved, and shall be deemed to form part of the Outdoor Patio on Municipal Lands Permit (Permit), only when signed by the Director of Community and Development Services or his/her designate. The Permit shall be posted at the commercial establishment, which shall serve as confirmation of approval of the design and layout of the outdoor patio area pursuant to the information supplied in this application, with any required amendments.

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Once the permit has been approved and the patio has been constructed and inspected to the satisfaction of the Town, an Occupancy Permit shall be issued and posted at the commercial establishment by the Permit Holder. Issuance and posting of the Occupancy Permit shall serve as confirmation of:

- That the physical setup of the outdoor patio area has been inspected by the Town of Fort Erie Community and Development Services employee and is in compliance with the approved application as noted above, as of the date of inspection.
- Receipt of Removal/Damage Deposit
- Receipt of Certificate of Insurance.

Any physical modification to an existing approved outdoor patio area deemed to be significantly different from the approved application or which contravenes the policy shall invalidate both Permits.

Invalidation of the Permits shall require the applicant to re-apply for a new Outdoor Patio on Municipal Lands Permit, and will require removal of all outdoor patio area fencing/delineators, decking, furniture and elements on Municipal Land until new Permits are issued. The Town of Fort Erie has the right to remove outdoor patio area fencing/delineators, decking, furniture and elements from the Municipal Land which differ from the approved application and/or pose a safety hazard to the patrons and/or general public.

The Permit is only valid for the permit period as noted on the Permit and all outdoor patio area fencing/delineators, decking, furniture and elements must be removed from the Municipal Lands by the end of the Permit period.

If there is a change of ownership, the Permit is void and the new owners must apply for a new Permit or remove the outdoor patio area.

(c) Maintenance

The applicant shall be responsible for all maintenance of the outdoor patio area including but not limited to, the cleaning of tables and surfaces and the pick-up of litter. The applicant of the outdoor patio area shall maintain the sidewalk in a like condition to that at the time of issuance of the Permit. A Removal/Damage Deposit for the removal of the patio from the Municipal Land or damage to Municipal Land is required and shall be held for the duration of the Occupancy Permit as per section (g).

The Town or any public utility shall have the right to enter any portion of an outdoor patio area at any time for the purpose of installing, maintaining or repairing pipes, cables, sidewalks, wires, poles and other installations, without any compensation to the applicant.

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(d) Seasonal Closure

All fencing/delineators, decking, furniture and elements shall be removed from Municipal Land on or before the expiry of the Permit in order to ensure pedestrian movement and snow clearing operations are not impeded. The Municipal Land shall be repaired by the applicant to the satisfaction of the Town. The permit will only be valid for one six month period from **May 1 to October 31**, both dates inclusive.

(e) Indemnity

The permit holder, its employees, agents, servants or others shall at all times indemnify and save harmless the Town, its employees and Members of Council from any and all manner of claims, demands, losses, costs, charges, actions and other proceedings whatsoever made or brought against, suffered by, or imposed upon the Town, in respect of any loss, damage or injury to any person or property directly or indirectly arising out of, resulting from, or sustained, as a result of this permit, your provision of services, or any operations therewith save and except for the negligence or willful misconduct of the Town.

(f) Insurance

The permit holder shall provide and maintain at his/her/its sole expense including payment of the required deductible:

- i) Commercial general liability insurance in the minimum amount of two million dollars (\$2,000,000) inclusive per occurrence. Coverage shall include but not limited to bodily injury including death, damage to property including loss of use thereof, personal injury, premises and operations liability, tenant legal liability and shall contain a cross liability, severability of insured clause. Such policy shall to protect the Town as an additional insured as the owner of the Municipal Land against all liability but only with respect to the operations of the permit holder.
- ii) If the operations of the permit holder are a licensed establishment the commercial general liability policy's coverage shall include Liquor Liability subject to limits no less than Five million dollars (\$5,000,000)

Such insurance shall be primary and will not call in to contribution any other insurance that may be available to the Town.

The permit holder shall provide an insurance certificate to the satisfaction of the Town that confirms the Town's requirements as stated under a) above and if applicable b). and for any subsequent renewal thereafter. If requested by the Town the permit holder is to provide a certified true copy of the policy certified by an authorized representative of the insurer.

The policy shall be endorsed to provide the Town with not less than 30 days' written notice of cancellation. If the policy is cancelled for any reason or if the permit holder fails to confirm that insurance coverage is in place at all times the permit holder will be required to immediately remove their operations from the Town's premises.

(g) Removal/Damage Deposit

Every Applicant for a Permit shall submit a Removal/Damage Deposit to the Town in accordance with the following provisions:

- i.) In order to guarantee compliance with all conditions contained within this Policy prior to issuance of the Permit by the Town, the Applicant shall provide a Removal/Damage Deposit currently in the form of cash or certified cheque, which shall be held by the Town, without interest, until such time as the Outdoor Patio is removed to the satisfaction of the Director of Community and Development Services.
- ii.) Should there be a deficiency in or failure to carry out any works or matter required by this Policy, and the Applicant fails to comply within ten (10) days written notice of written direction to carry out such work or matter, the Town may draw on the Removal/Damage Deposit to the extent necessary to achieve compliance with this Policy and also to rectify, restore or repair any municipal property damaged in implementing the Permit, and enter onto the lands and complete all outstanding works or matters, and pay all costs and expenses incurred thereby from the proceeds so drawn.
- iii.) In the event the Director of Community and Development Services determines, at any time, that the costs of achieving compliance with this Policy exceed the amount of the deposit held by the Town, the Town shall send a written notice to the Applicant, specifying the amount of such excess to be paid to the Town by the Applicant. The Town may collect such deficiency from the Applicant by demand, on at least ten (10) calendar day's notice failing which the Town may add the deficiency to the tax roll of the lands to which the Outdoor Patio is appurtenant, and collect same in the same manner as property taxes, without prejudice to any other right of the Town to collect same.

(h) Effect of Approval

Approval of a Permit does not constitute approval for the operation of the Outdoor Patio, and it remains the responsibility of the Applicant to satisfy any other licensing and/or legal requirements for its operation.

4. OUTDOOR PATIO ON MUNICIPAL LAND PERMIT EXPIRY

An Outdoor Patio on Municipal Land Permit will be issued once the Application has been reviewed and approved and will be posted at the location until such time as the Occupancy Permit is issued. The Occupancy Permit will be issued once the patio area

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has been constructed, inspected and approved by a Community and Development Services staff member.

Occupancy Permits expire on October 31st of the permit year. If the Applicant decides to re-establish the patio the following season (same configuration as previously), a new Occupancy Permit must be applied for that following season and the Renewal Fee, Removal/Damage Deposit and current Insurance Certificate will be required.

Upon receipt of a request for renewal, the Town will circulate the request to appropriate departments and agencies to determine if there are any objections, or if any of the plans of the previous approval require modification or additions to reflect current requirements and an inspection of the set-up will be completed. If approved, a new Occupancy Permit shall be issued.

Notwithstanding the approval and issuance of a Permit, the Town reserves the right to terminate, suspend or revoke a Permit, and consequently require the immediate dismantling and removal of the Outdoor Patio at the Applicant's expense, in the event:

- i.) The Applicant, at any time, violates this Policy in the sole discretion of the Director of Community and Development Services,
- ii.) The Applicant fails to comply with the provisions of any municipal by-laws, provincial, federal laws and regulations, including breaches at or in the premises to which the Permit applies.
- iii.) The Outdoor Patio creates a conflict with the use and/or maintenance of any Municipal Land, which the Director of Community and Development Services deems unacceptable, at any time during the period of the Permit, or
- iv.) The Municipal Land for which a permit has been issued, is required for municipal purposes, including but not limited to, installation, repair and/or maintenance of municipal or other utilities,

The Applicant shall remove the Outdoor Patio within the time stipulated by the Director of Community and Development Services.

The Applicant shall have no claim against the Town for any loss or damage arising from the termination, suspension or revocation of a Permit, or the removal/dismantling of the Outdoor Patio.

APPENDIX A

APPLICATION FORM OUTDOOR PATIO ON MUNICIPAL LAND PERMIT PLEASE COMPLETE THE FOLLOWING INFORMATION SUBMIT TO - COMMUNITY AND DEVELOPMENT SERVICES, TOWN OF FORT ERIE, 1 MUNICIPAL CENTRE DR, FORT ERIE, ON, L2A 2S6
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PART ONE	APPLICANT	<i>(This contact will receive all correspondence during the process and will be the key contact for the Town)</i>
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Name _____

Address _____

Address _____

Postal Code _____

Telephone _____ Work # _____

Fax _____ Email _____

PART TWO	OWNER	<i>(This contact must acknowledge the application and will receive correspondence through the process)</i>
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Name _____

Address _____

Address _____

Postal Code _____

Telephone _____ Fax _____

Email _____

PART THREE	OPERATOR	<i>(This contact will be the contact that will be the holder of the permit and will have to provide the required insurance)</i>
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Name _____

Address _____

Address _____

Postal Code _____

Telephone _____ Fax _____

Email _____

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PART FOUR	LAND AFFECTED
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State municipal number, address, for which the outdoor commercial area on Municipal Lands is proposed:

PART FIVE	PRESENT ZONING AND LAND USE
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State the present zoning of the land:

For what purpose(s) will the land (including buildings) be used:

PART SIX	HISTORY	INTERNAL USE ONLY
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Has the site been the subject of any of the following (state file number if known):

Zoning Application

Site Plan Control Application

Committee of Adjustment

PART SEVEN	PROPOSAL
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Proposed Use of Area:

Proposed Size of Area:

Proposed Location of Area:

Is Alcohol to be served?

Yes ☐ No ☐

Has a Liqueur Licence been
obtained?

Yes ☐ No ☐

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PART EIGHT

COMMERCIAL FACILITY INFORMATION

(required if proposal is for tavern/restaurant)

Adequate washroom facilities for both existing restaurant and new outdoor patio are required.

Occupant load of restaurant in accordance with the Ontario Building Code: _____

Occupant load of patio in accordance with the Ontario Building Code: _____

Number of water closets (toilets) in male washrooms: _____

Number of urinals in male washrooms: _____

Number of water closets (toilets) in female washrooms: _____

PART NINE

AUTHORIZATION

Must be completed if Applicant is not the registered Owner of the lands.

Please provide names of all officers of the corporation or numbered company

I/We _____ hereby

authorize and direct _____ to

make this application on the property known Municipally as

_____ for which I am/ we are the registered owners (s).

Witness

Signed

Date

Corporate Seal required
for a Corporate Owner

NAME OF AUTHORIZED APPLICANT _____

Address of Applicant _____

Telephone No. _____ Postal Code _____

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PART TEN	STATUTORY DECLARATION
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I, _____ of the _____ of _____, solemnly declare that all the statements contained in this application are true and I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the Canada Evidence Act.

Signature of Applicant

Declared before me at the _____ of _____ in the _____

Of _____

This ____ day of _____, 20____

A Commissioner, etc.

Personal information contained in this form is collected under the authority of the Municipal Act, 2001, S.O. 2001, C.25 and will be used to determine compliance with the provisions of the Town's By-laws. This information may be forwarded to various Town Departments and agencies for comment.

Community & Development Services Department
TOWN OF FORT ERIE
Municipal Centre
Fort Erie, Ontario, L2A 2S6
Phone No. (905) 871-1600 (ext.2543)

APPENDIX B
PLANNING APPLICATION FEES

Please refer to the Town of Fort Erie website for updated Planning Application Fees at www.town.forterie.ca or available upon request

APPENDIX C



OUTDOOR PATIO ON MUNICIPAL LAND PERMIT

PERMIT PERIOD

ISSUED DATE:

EXPIRY DATE:

APPLICATION APPROVED BY:

Director of Community and Development Services

Date

The permit holder acknowledges that this permit is only valid for the operator(s) who have signed the permit. Any change in operator will void the permit and the new operator must apply for a new permit or remove the outdoor commercial patio within 10 days.

The permit holder, its employees, agents, servants or others shall at all times indemnify and save harmless the Town, its employees and Members of Council from any and all manner of claims, demands, losses, costs, charges, actions and other proceedings whatsoever made or brought against, suffered by, or imposed upon the Town, in respect of any loss, damage or injury to any person or property directly or indirectly arising out of, resulting from, or sustained, as a result of this permit, your provision of services, or any operations therewith save and except for the negligence or willful misconduct of the Town.

OPERATOR

I agree to abide by By-Law xx-2014
being the Outdoor Patios on Municipal
Land Policy.

Operator Signature

Operator Name (Printed)

Date



OUTDOOR PATIO ON MUNICIPAL LAND OCCUPANCY PERMIT

PERMIT PERIOD

ISSUED DATE:

EXPIRY DATE:

INSPECTED & APPROVED BY:

Community and Development Services Department

Date

The permit holder acknowledges that this permit is only valid for the operator(s) who have signed the permit. Any change in operator will void the permit and the new operator must apply for a new permit or remove the outdoor commercial patio within 10 days.

The permit holder, its employees, agents, servants or others shall at all times indemnify and save harmless the Town, its employees and Members of Council from any and all manner of claims, demands, losses, costs, charges, actions and other proceedings whatsoever made or brought against, suffered by, or imposed upon the Town, in respect of any loss, damage or injury to any person or property directly or indirectly arising out of, resulting from, or sustained, as a result of this permit, your provision of services, or any operations therewith save and except for the negligence or willful misconduct of the Town.

OPERATOR

I agree to abide by By-Law xx-2014
being the Outdoor Patios on Municipal
Land Policy.

Operator Signature

Operator Name (Printed)

Date