

THE CORPORATION OF THE TOWNSHIP OF CRAMAHE

BY-LAW NO. BL-2022-24

Being a By-law to Authorize and Regulate the Temporary use of Outdoor Sidewalk (Restaurant) Patios Within the Township of Cramahe

WHEREAS Section 150(1) of the *Municipal Act, 2001, c.25*, authorizes a local municipality to license, regulate and govern any business wholly or partly carried on within the municipality even if the business is being carried on from a location outside the municipality; and

WHEREAS Section 150 (2) authorizes municipalities to exercise licensing powers, including imposing conditions, for one or more of the following purposes:

- a) Health and safety;
- b) Nuisance control;
- c) Consumer protection; and

WHEREAS the Council of The Corporation of The Township of Cramahe has determined that outdoor restaurant and sidewalk restaurant patios are, by their nature, a class of business that could present a potential risk to the health and safety of those persons who patronize the business due to the:

- a) Design and layout of the patio; and
- b) Lack of appropriate and sufficient parking; and
- c) Has the potential to be carried on in a manner that can create a public nuisance to the neighboring community by operating in a manner that can be disruptive to the reasonable expectations and values of the community and its members; and

WHEREAS for the purpose of addressing the foregoing concerns as they relate to health and safety and nuisance control, the Council of The Corporation of The Township of Cramahe deems it desirable to license, regulate and govern the operation of outdoor restaurant and sidewalk restaurant patios in the manner hereinafter set out.

Now therefore be it resolved that the Council of The Corporation of the Township of Cramahe hereby enacts as follows:

Section 1 – Short Title

1.1 This By-law may be cited/known as the 'Outdoor Patio By-law'.

Section 2 – Definitions

2.1 In this by-law:

“applicant” means the person who applies for a license under this by-law

“appurtenances” means anything attached to or associated with a structure including but not limited to tables, chairs, wrought iron railings and/or umbrellas

“Chief Building Official” means the Chief Building Official for The Corporation of the Township of Cramahe

“Clerk” means the Clerk for The Corporation of the Township of Cramahe

“Commercial Area” means primarily for commercial use a defined in the Zoning By-law of The Corporation of the Township of Cramahe, being By-law No.08-18 as amended

“Council” means the Council for The Corporation of the Township of Cramahe

“Designated Area” means an area designated for the operation of an outdoor patio

“front patio” means an outdoor patio located adjacent to the business/building it serves directly in front of the main entrance

“Liquor License Act” means the Liquor License Act, R.S.O 1990, c.L.19 as amended, and includes any regulation passed under it

“Municipal Act, 2001” means the Municipal Act, 2001, S.O. 2001, c.25, as amended, and includes any regulation passed under it.

“Outdoor patio” means a space on a Township sidewalk in the case of public land, providing service in the nature of a restaurant, eatery, café, or like business, and within or on which may be included objects such as tables, chairs, umbrellas and decorative planters, and where food and/or beverages including alcoholic and non-alcoholic beverages are served to the public while within the designated area permitted

“pedestrian clearway” means a clear and unencumbered area of a public sidewalk measuring a minimum width of 1.5m that is reserved for pedestrian traffic and approved by the Chief Building Official.

“permit fee” means the fee associated with granting such permit as set out in the current fees and charges by-law.

“permit holder” means the person to which an Outdoor Patio permit has been issued under this by-law, the permit holder's successors or any person to whom the related business has been assigned

“Provincial Offenses Officer” means an individual appointed by by-law or other agencies designated by Council who are responsible for the administration of this by-law and shall include Police officers.

“public works” means works supplying the general public with necessities or conveniences and includes, but is not limited to, works for the production, supply and transmission of gas, oil, sewer, water and electric power or energy, and all telephone, cable television and other telecommunications lines and “public work” has a similar meaning

“residential area” means primarily for residential use in accordance with Comprehensive Zoning By-law 08-18

“sidewalk” means that part of a highway set aside by the Township for the use of/by pedestrians

“sight triangle” means the triangular space formed on a corner lot by the street lines and a line drawn from such a point in one street line to a point in the other street line, each such point being 9m, (29.53 ft) measured along the street line from the point of intersection of the street lines. Where the two street lines don not intersect at a point, the point of intersection of the street lines shall be deemed to be the intersection of the projection of the street lines or the intersection of the tangents to the street lines. This definition shall also include the sight triangle formed on a corner lot at the intersection of a rail line and a street.

“visual clearance” means visibility through and across an outdoor patio, with nothing that will obstruct the view across said patio, or that of a traveler's view on the street or sidewalk

Section 3 – Interpretation

- 3.1 Headings are for reference purposes and shall not affect in any way the meaning or interpretation of the provisions of this by-law.
- 3.2 This by-law includes the Schedules annexed hereto and the Schedules are hereby declared to form part of this by-law.
- 3.3 It is declared that if any section, subsection or part or parts thereof declared by any Court of Law to be bad, illegal or ultra vires, such section, subsection or part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.
- 3.4 Notifications required to be provided by the Township under this by-law may be provided in person to the person receiving the notification or by registered mail to the last known address of the recipient, and where it is sent by registered mail, it is deemed to be received by the recipient on the day following mailing.
- 3.5 If a permit holder of an 'Outdoor Patio Permit' under this by-law is not the owner of the property to which the patio is related, any notification required to be sent by the Township shall be sent to the property owner in addition to the permit holder.

Section 4 – General Regulations

- 4.1 No 'Outdoor Patio Permit' holder shall cook food or permit the cooking of food on said patio.
- 4.2 No 'Outdoor Patio Permit' holder shall locate items outside the permitted patio area at any time, including signs, planters, banners, and umbrellas.
- 4.3 No 'Outdoor Patio Permit' holder shall use any streetscaping elements or public utility/lighting poles for the purpose of attaching any fixtures, equipment, items, lighting or furniture.
- 4.4 No 'Outdoor Patio Permit' holder shall install or erect any umbrella type cover that extends beyond the vertical plane of the proposed patio enclosure.
- 4.5 No 'Outdoor Patio Permit' holder shall sell or offer for sale on the patio any goods, wares or merchandise other than food or drink for consumption on the patio.
- 4.6 No 'Outdoor Patio Permit' holder shall extend the boundary or table and chairs of the said patio further than the frontage of the applicant's premises.
- 4.7 Regardless of size, all outdoor patios placed on public property (sidewalks) must maintain a clear width of 1.5m of pedestrian thoroughfare between the patio enclosure and the sidewalk/road curb, utility/light pole, and any other permanent structure.
- 4.8 No 'Outdoor patio' shall remain open and/or occupied by patrons past 11:00 pm at night.
- 4.9 All 'Outdoor patio' contents (tables and/or chairs) shall be secured and stored outside of business hours (which can be indoors or outdoors at the discretion of the Applicant).
- 4.10 In accordance with the Noise By-law 06-71, no live amplified music or mechanical music may be played on a patio

Section 5 – ‘Patio Enclosure’ Requirements/Restrictions

- 5.1 All patios shall be enclosed to delineate between the said patio and other areas (public thoroughfares, laneways, adjacent properties etc)
- 5.2 Patio enclosures shall be constructed as a railing system made up of either; wrought iron, aluminum, pressure treated wood, or similar component.
- 5.3 Patio enclosures must be affixed to the ground upon which they bear by mechanical means, enabling removal when/if required.
- 5.4 Patio enclosures must be 0.9m in height when measure from the grade to which they are affixed.
- 5.5 Patio enclosures are not to be constructed with any ‘climbable’ portions.
- 5.6 All patio enclosures shall maintain a 1.2m opening with a continuous 1.2m path of egress to and from the building entrance/exit.
- 5.7 No portion of an ‘Outdoor patio’ or its contents shall be located directly in front of or interfere with an entrance to or exit from a building.

Section 6 - Permit Required

- 6.1 Permits issue are for the calendar year only. Those wishing to install designated patio areas will be required to apply/renew yearly.
- 6.2 No person shall construct, install, or erect an Outdoor Patio as defined in Section 2, on public lands, or permit an Outdoor Patio to be constructed, installed or erected, without first obtaining a permit in accordance with the provisions of this by-law.
- 6.3 Where a person wishing to operate an outdoor patio as defined in Section 2 of the by-law where alcoholic beverages shall be served to the public, shall make application through the Liquor Control Board of Ontario (LCBO) for the appropriate outdoor liquor sales license, and proof of a current approved outdoor liquor sales license shall be required by the Chief Building Official as part of the Township’s ‘Outdoor Patio’ application/permitting process.

Section 7 - Procedure for Application

- 7.1 An applicant shall file an application for an ‘Outdoor patio Permit’ in such form and detail as the Township shall prescribe from time to time, at the applicant’s cost, and shall include the following:
 - An application for a permit in the form provided by the Township.
 - A site plan showing the location and dimensions of the proposed ‘outdoor patio’ enclosure, the premises to which the patio will be appurtenant, all relevant lot lines, all tables and seating, and all existing surface features located between the premises and the roadway in the case of a ‘front patio’.
 - A floor plan of the premises illustrating all – tables and seating, washroom facilities with fixture count, and path of egress to exits.
 - Any other information as required by the Township in order to review, approve, and determine compliance with this by-law.

- Payment to the Township a non-refundable application/permit fee in the amount identified in the Township of Cramahe's current Fees and charges by-law.
- 7.2 The applicant shall provide evidence of insurance, satisfactory to the Township and in accordance with Section 10, prior to the issuance of the permit.
 - 7.3 The applicant shall apply for an 'Outdoor Patio Permit' for each season that the applicant wishes to place and occupy for business.
 - 7.4 Any application for an 'Outdoor Patio Permit' must be submitted by, or include written authorization/consent of, the property owner of the property to which the patio in question is related or adjacent.
 - 7.5 The Chief Building Official and Public Works Manager shall review all applications for Outdoor patios for compliance with this By-law and thus pending satisfaction of the requirements, the Chief Building Official shall issue a permit at his/her sole discretion.

Section 8 – Outdoor Patio Seasons

- 8.1 The 'Outdoor Patio Permit' for patios on public property (sidewalks) appurtenant and adjacent to the principal business will be seasonal and run from May 1st – October 31st of the given year. No patio installations are allowed before May 1st, and all installations are to be removed by October 31st of each calendar year.

Section 9 – Revocation and Contravention

- 9.1 An 'Outdoor patio' permit issued under the provisions of this By-law may be revoked by the Chief Building Official or Provincial Offenses Officer when the permit holder has been served notice of non-compliance with the terms of this By-law, by a Provincial Offenses Officer.
- 9.2 Any person who contravenes the provisions of the By-law shall be guilty of an offense and liable to a penalty not exceeding \$5,000.00, exclusive of costs, recoverable under the Provincial Offences Act, R.S.O.1990 Chapter P.33.

Section 10 – Indemnification

- 10.1 The permit holder shall indemnify and save harmless the Township from any and all claims, demands, causes of action, loss, costs or damages that the Township may suffer, incur or be liable for resulting from the issuance of a 'Outdoor Patio Permit' under this by-law or from the performance of the permit holder, or that of his or her employees, directors or agents, under this by-law whether with or without negligence on the part of the permit holder, the permit holder's applicant's employees, directors and agents.

Section 11 - Insurance

- 11.1 The permit holder applicant shall provide and maintain insurance in accordance with the following requirements in respect of each 'outdoor patio permit' issued to the permit holder under this by-law:
 - i. Commercial General Liability insurance subject to the limits of not less than \$5,000,000 inclusive per occurrence for licensed establishments, and not less than \$2,000,000 per occurrence for non-licensed establishments, for bodily injury, death and damage to property including loss of use thereof, and such insurance shall be in the name of the applicant and shall name

the Township as an additional insured thereunder and which shall preclude subrogation claims by the Insured against anyone insured thereunder;

- ii. Broad Form Property insurance coverage to the replacement value of the fixtures for which the permit applies, or, in the event the fixtures are self-insured by the applicant. A letter signed by the applicant, accepting loss or damage to the fixtures;
- iii. A Certificate of Insurance evidencing the above insurance coverage(s) shall be provide to the Township and be included as part of the application submission; and
- iv. An endorsement to provide the Township with thirty (30) days prior written notice of cancellation.

Section 12 – Damages

- 12.1 Any damage to the public thoroughfare caused by the 'outdoor patio' will be repaired by the permit holder at the permit holder's expense, to the satisfaction of the Chief Building Official/Public Works Manager. If the work required to repair damage to the thoroughfare is not performed by the permit holder to the Chief Building Official/Public Woks Manager's satisfaction, the work may be undertaken by the Township at the permit holder's expense, and the Township may recover its costs from the permit holder by adding them to the tax roll and collecting them in same manner as property taxes.

Section 13 – Considerations

- 13.1 A 'Outdoor patio' permit holder is not entitled to any special or additional thoroughfare maintenance and the owner is responsible for cleaning the 'outdoor patio' area, including litter, snow, and ice removal.

Read a first, second and third time and finally passed this 19 day of April 2022.


Mandy Martin, Mayor


Holly Grant, Clerk

SCHEDULE "A"



OUTDOOR PATIO PERMIT APPLICATION

OUTDOOR PATIO PERMITS RUN FROM MAY 1 - OCT 31 TO BE RENEWED ANNUALLY

BUSINESS INFORMATION

Business Name:	Business Owner:
Business Address:	Roll Number:
Do you intend to sell/serve alcohol on	YES NO If you answered yes, please provide a copy of your liquor licence

OWNER INFORMATION

Registered Property Owner(s):		
Mailing Address:		
City:	Province:	Postal Code:
Phone:	Cell:	Email:

APPLICANT INFORMATION (if different from owner - attach an owner's authorization form)

Name of Applicant:		
Address:		
City:	Province:	Postal Code:
Phone:	Cell:	Email:

DESCRIPTION - *PLEASE ATTACH A DETAILED SITE PLAN*

DECLARATION OF APPLICANT

I _____ declare that:
(Print Name)

1. The information contained in this application, attached plans, specifications, and other documents are true to the best of my knowledge

2. If the owner is a corporation or partnership, I have the authority to bind the corporation or partnership

_____ Date _____ Signature of Applicant

FOR OFFICE USE ONLY

Date received:	Date of Issue:	Permit Number:	Fee Received:
Reviewed By Building Department:		Reviewed by Public Works Department:	