



SECTION: Development	EFFECTIVE DATE: March 27, 2023
RECOMMENDATION NO.: GC47-23	COUNCIL APPROVAL: Res. No. 64-23
SUBJECT: Café and Retail Sidewalk Use Policy – BIA	POLICY NUMBER: Operations-02

PURPOSE:

This policy regulates the establishment and operation of a Sidewalk Café and Retail Display within the Town of Huntsville Business Improvement Area (BIA) to ensure a clear path of travel (including wheelchairs) for pedestrians.

OBJECTIVE:

The objective of the Café and Retail Sidewalk Use Policy is:

- To ensure all members of the public can safely navigate the sidewalks in the BIA without hindrance of objects and sidewalks remain accessible to everyone.
- To define the criteria and process for business use of sidewalks for Cafés and Retail Displays.
- To ensure the streetscape remains aesthetically appealing, uncluttered, and clean
- To provide an approval and permitting process for sidewalk use.

DEFINITIONS:

“Applicant”

Any business owner or property owner making an application for a temporary BIA sidewalk use permit.

“Clear path of Travel”

Includes public outdoor sidewalks (or walkways) designed and constructed for pedestrian and wheelchair travel and are intended to serve a functional purpose. These paths shall consider adjoining properties to provide a continuous path of travel along the public sidewalk.

“Temporary Cafés”

Temporary table that can accommodate no more than 6 people. The tables and seating must be removable, without ties or anchors to municipal infrastructure and are stored inside of the establishment each night.

"Temporary Retail Display"

Outdoor display of clothing, items, structures or chattels used to exhibit wares or services for sale at that establishment. The Retail Display must be removable, without ties or anchors to municipal infrastructure and stored inside the establishment each night.

“Other Uses”

Any use of the sidewalk not mentioned above, including special events, that are within 1 metre of the exterior front wall of the building.

GENERAL TERMS

- a. Any temporary Retail Displays or Sidewalk Cafés are governed under this policy
- b. Sidewalk Cafés shall only be permitted as an extension of existing adjacent restaurants, and take-out restaurants on lands zoned for such use as identified in the Community Planning Permit By-law, as amended.
- c. Once a Sidewalk Cafe is approved, no deviation from the submitted plan shall be permitted without the approval of the Director of Development Services.
- d. This policy is to be administered by the Director of Development Services or their designate.
- e. All Applicants that are approved must enter into an agreement with the Town of Huntsville and adhere to all conditions within the permit and this policy.
- f. The above provisions do not apply when a Special Event Advisory Team (SEAT) application has been issued that will occupy or incorporate the sidewalk.
- g. Art and cultural displays proposed outside of a recognized event will fall under this policy. Consideration may be given to a display remaining on the sidewalk overnight.
- h. Any request that does not meet the provisions of the policy will be considered by Council.
- i. All signage (such as sandwich board signs, menu board signs and A-Frame signs) are subject to, and must conform to, the Town of Huntsville Sign By-law, and do not form part of a sidewalk use permit.

TIME OF YEAR

Sidewalk Cafes and Retail Displays are allowed between April 15th and October 31st. The option to extend the café or retail display is at the discretion of the Director of Operations and Protective Services or their designate.

HOURS OF OPERATION

- a. All Sidewalk Cafes and Retail Displays shall be closed and removed by 11 p.m.
- b. All Applicants with a sidewalk Café and Retail Display shall ensure that there is no outdoor music or amplified sound after 11 p.m. or before 7 a.m. of the following day unless prior approval is granted by the Town in accordance with applicable Town By-laws.

TEMPORARY SIDEWALK CAFÉ

A Sidewalk Café shall:

- a. Be located adjacent to the exterior front wall of the building for which a Permit is issued, provided a minimum of 1.8 metres of unimpeded sidewalk width, (including, e.g., feature boulders, trees, etc.) beyond the sidewalk café to the edge of the travelled portion of roadway can be achieved;
- b. Be a table that can accommodate no more than 6 people
- c. Be easily removed and not be anchored or secured to Town of Huntsville infrastructure
- d. Used for activities, food, and non-alcoholic beverage for sales at that establishment
- e. Be stored inside of establishment each night

RETAIL DISPLAYS

A Sidewalk Retail Display shall:

- a. Be located adjacent to the exterior front wall of the building for which a Permit is issued, provided a minimum of 1.8 metres of unimpeded sidewalk width beyond the sidewalk, e.g., feature boulders, trees, etc. retail display to the edge of the travelled portion of roadway can be achieved;
- b. Only display clothing, items, structures or chattels used to exhibit wares or services for sale at that establishment
- c. Be able to be removed easily and not be anchored or secured to Town of Huntsville infrastructure
- d. Be stored inside of establishment each night

CONSTRUCTION REQUIREMENTS

If construction is required for a temporary Sidewalk Café or Retail Display, it must meet all requirements of the Ontario Building Code and all other relevant agencies and have all required permits.

OTHER USES

Temporary art display and/or sidewalk feature:

Any type of temporary object or structure occupying the sidewalk. For example, ice sculpture, hot beverage stand, contest wheel etc. Applicant would work with the approval authority to ensure sidewalk meets all insurance requirements and provisions.

Special events:

For any request that is above and beyond the temporary use of a sidewalk, such as using the town property – request must go to Town Sales Department for review. Areas include Kent Park, Town Hall Civic Square & Steps, Town Hall Steps and or Rivermill Park.

OPERATIONS

- a. All Sidewalk Café and Retail Displays shall be operated in such a manner as to not interrupt normal business activity of the adjacent commercial activities. Applicants shall take all reasonable steps to ensure that their patrons do not yell, shout, hoot, whistle, sing or in other ways disturb passing pedestrians, disturb the peace or detract from the overall environment of the surrounding area.
- b. Cooking is not allowed within the Sidewalk Café.

- c. The Applicant shall, at his/her own expense, keep the portion of sidewalk in question in a clean and tidy condition free from papers, rubbish, and debris of all kinds including soiling/staining of the sidewalk.
- d. The Applicant will remove the sidewalk café or retail display and permit the Town of Huntsville and utility crews access to the sidewalk area for the purposes of installation, maintenance, and repair of infrastructure at any time.
- e. The Applicant must post the Sidewalk Cafe as non-smoking in accordance with the *Smoke-Free Ontario Act, 2017, S.O. 2017, c.26, Sched. 3* and regulations thereunder as may be amended from time to time.

LIABILITY

Insurance:

- a. The Applicant shall obtain and maintain commercial general liability insurance in the amount of \$2,000,000, naming the Corporation of the Town of Huntsville as an additional insured but only with respect to the operations of the named insured. Coverage shall include but not be limited to bodily injury, personal injury, property damage, contractual liability, tenants' legal liability, and contain a cross liability, severability of insured clause. The policy shall contain a waiver of subrogation in favour of the Town.
- b. Prior to the execution of the permit/agreement and upon the placement, renewal, amendment, or extension of all or any part of the insurance, the Applicant shall promptly provide the Town of Huntsville with a certificate of insurance and, if required, a certified true copy(s) of the policy(s) certified by an authorized representative of the insurer together with copies of any amending endorsements applicable to the Agreement.
- c. The policy(s) shall be endorsed to provide the Town of Huntsville with not less than 30 Days' written notice of cancellation.

Indemnification:

The Applicant shall indemnify and save harmless the Town of Huntsville, it's employees, officers, Members of Council and agents ("Indemnified Parties") from and against any claims, demands, losses, or costs, suffered by or imposed on the Indemnified Parties in respect to any loss, damage, bodily injury, or death, to any person or property, directly or indirectly as a result of this policy, entering into a permit agreement and any operations connected therewith, save and except for the negligence or wilful misconduct of the Indemnified Parties. Without limiting the foregoing, it is understood and agreed that this indemnity shall include legal and investigation expenses incurred in defending any claim by the Indemnified Parties in connection to this contract. Further, it is understood and agreed that the Applicant shall immediately reimburse the Indemnified Parties for any and all such amounts upon demand.

APPLICATION

- a. All applications are to be made on the appended application form
- b. All applications are to accompanied by the following:
 - i. A completed criteria checklist submitted by the BIA
 - ii. Landlords Letter of Support (if different from Applicant)
- c. Certificate of Insurance, naming the Corporation of the Town of Huntsville as additional insured and any applications which have impact on the traveled roadway and parking

areas of District of Muskoka Roads shall be circulated to the District of Muskoka.

TERMINATION

- a. An Applicant shall maintain an approved Sidewalk Café or Retail Display in accordance with the approved application and this policy, failing which the applicant may be evicted from the sidewalk.
- b. Excessive complaints about the location and/or operation of the Sidewalk Café or Retail Display may lead to the immediate termination of the agreement and will result in eviction from the sidewalk.
- c. Upon written notification for failing to adhere to the terms and conditions in the agreement or this policy, the owner/operator shall be expected to vacate the portion of the sidewalk. If the owner/operator fail to vacate in the timeframe indicated within the written notice, Town staff or contractors shall remove the installation and shall recover all costs from the owner/operator.

APPROVALS

Approval for Sidewalk Café and Retail Displays shall be granted by the Director of Development Services and such permission may arbitrarily be withheld or withdrawn by Council.

Annual renewal of Sidewalk Cafes and Retail Displays will be approved by the Director of Development Services or their designate.

OBJECTIONS

Any person or public body may make written submissions to the Town of Huntsville concerning the rejection of a proposed permit application. ***Please take note that any objections must include your name, contact information and reasons for your objection.***

RESPONSIBILITY:

As described in the policy above.

APPENDIXES:

"A" - Sample application for a sidewalk Café or Retail Display

"B" - BIA Board Criteria Checklist Letter of Support

APPENDIX A

Example of Print Application:

Town of Huntsville - Department of Development Services

Huntsville BIA Application for Sidewalk Café and/or Retail Display

This is an application to use a portion of a municipally owned sidewalk within the Town of Huntsville Downtown BIA for a sidewalk café or retail display as an extension of an existing business.

Date:

Business Name:

Business Address:

Phone number:

Email:

Applicants Name:

(Surname)

(Given Name)

(Initials)

Mark with **X** to select option: New application Renewal

I _____ hereby apply for permission for the above business to use a portion of the sidewalk in front of my business located at

_____.

I have reviewed the terms and conditions as per the Town of Huntsville Café and Retail Sidewalk Use Policy and agree to comply with the terms and conditions contained therein.

I indemnify and hold harmless the town of Huntsville from any action, claim, damage or loss whatsoever arising from the use of the sidewalk for the purpose of the Sidewalk Café and/or Retail Display.

Signature of the Applicant: _____

Date:

Checklist of Attachments

Read **Café and Retail Sidewalk Use Policy – BIA** at www.Huntsville.ca and/or connect with Town of Huntsville Economic Development Officer, Lauren MacDermid, at lauren.macdermid@huntsville.ca

New Application:

Complete application form with intent to use the space

Completed BIA Board Criteria Checklist (applicant completes on their own)

___ Landlord's Letter (only if different from applicant)

___ Certificate of Insurance, naming the Corporation of the Town of Huntsville as additional insured

Renewal Application:

___ Certificate of Insurance, naming the Corporation of the Town of Huntsville as additional insured

APPENDIX B

BIA Board Criteria Checklist Letter of Support



BIA Café/Retail Display Sidewalk Use Checklist

1. Description / Diagram
2. Would the display location impact a clear path of travel? Yes or No
 - a. **“Clear path of Travel”**- Includes public outdoor sidewalks (or walkways) designed and constructed for pedestrian and wheelchair travel and are intended to serve a functional purpose and not to provide a recreational experience. These paths shall consider adjoining properties to provide a continuous path of travel along the public sidewalk.
3. Do you intend on leaving your display out overnight? Yes or No

BIA Board supports café/retail displays that fall within these parameters.