

The Corporation of the Township of Centre Wellington

By-law 2022-33

A By-law to Regulate Patios, Cafes and Sidewalk Displays
on municipal property and Repeal By-law 2021-14

Whereas Section 8(1) of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, hereinafter referred to as the "*Municipal Act*" provides that the powers of a municipality under the *Municipal Act* or any other Act shall be interpreted broadly so as to confer broad authority on a municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

And Whereas Section 9 of the *Municipal Act* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the *Municipal Act* or any other Act;

And Whereas Section 11(3) 1 of the *Municipal Act* authorizes a municipality to pass By-laws regarding highways;

And Whereas Section 8 (3) of the *Municipal Act* authorizes a municipality to provide for a system of licences and a licence includes a permit;

And Whereas Section 63 (1) of the *Municipal Act* authorizes a municipality that has passed a By-law for prohibiting or regulating the placing of an object on or near a highway, to provide for the removal, impounding or restraining and immobilizing of any object in contravention of the By-law and subsection 170 (15) of the *Highway Traffic Act* applies;

And Whereas Section 391 (1) of the *Municipal Act* provides that a municipality may pass a By-law imposing fees or charges on any person for services or activities provided by the municipality or done on behalf of it;

And Whereas the Council of the Township of Centre Wellington deems it appropriate to regulate Patios, Cafes and Sidewalk Displays and hereby enacts as follows:

1 Definitions

In this By-law:

"Building Code" means the *Building Code Act, 1992, S.O. 1992, c. 23*, and any regulations thereunder, as amended;

"Central Business District" means the area of Elora and Fergus designated as a Central Business District as outlined in Schedules A and B to this By-law;

"Chief Building Official" means the Chief Building Official for the **Township** or his/her designate;

"Clearway" means an area free of any items, objects, structures, chattels, furniture, fixtures or **obstructions** of any type;

"Costs" means all monetary expenses including labour incurred by the **Township** including interest and may include an administrative surcharge amount as established by the **Township's** Fees and Charges By-law;

"Heating Device" means gas fueled and/or electrical devices that are designed to provide heat;

"Highway" includes a common public highway, street, avenue, parkway, lane, alley, roadway, driveway, **Sidewalk**, square, place, bridge, viaduct or trestle, designed and intended for and used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;

"Managing Director of Infrastructure Services" means the Managing Director of Infrastructure Services for the **Township** or his or her designate;

"Obstruct" or **"Obstruction"** means to encumber, impede, damage or foul and includes a thing and an obstacle that encroaches, impedes or prevents passage or progress;

"Occupant" means any **Person** over the age of eighteen years in possession of the **Property**;

“**Officer**” means a police officer, Municipal Law Enforcement Officer or any other person appointed by By-law to enforce the provisions of this By-law;

“**Owner**” means the registered owner of the **Property** and includes,

- (a) the **Person** for the time being managing or receiving the rent of the **Property** in connection with which the word is used, whether on the **Person’s** own account or as agent or trustee of any other **Person**, or who would receive the rent if the **Property** were let; and
- (b) a lessee or **Occupant** of the **Property** under the terms of a lease;

“**Pedestrian Platform**” means a platform constructed on a **Highway** for the purpose of facilitating pedestrian traffic;

“**Permit**” means a current valid permit issued pursuant to this By-law;

“**Permit Holder**” means a **Person** who has been issued a **Permit**;

“**Person**” includes an individual, sole proprietorship, partnership, limited partnership, trust, corporation, and an individual in his or her capacity as a trustee, executor, administrator, or other legal representative;

“**Property**” means a parcel of land which is capable of being legally conveyed;

“**Sidewalk**” means the improved portion of a **Highway** between the edge of the roadway or boulevard and the property lines of the **Property** abutting the **Highway** and which is intended for the use of **Pedestrians**;

“**Sidewalk Display**” is the display of wares, services or items on a **Sidewalk** and includes objects, structures, chattels, furniture or fixtures used to exhibit such wares, services or items;

“**Sidewalk Café**” means an area on a **Highway** where food and beverages are offered for sale, served and consumed but does not include the sale, service and consumption of alcohol;

“**Sidewalk Patio**” means an area on a **Highway** where food and beverages are offered for sale, served and consumed and includes the sale, service and consumption of alcohol;

“**Sight Triangle**” means the area of a corner lot, which is kept free of buildings or other features which may **obstruct** the vision of drivers of vehicles, and is maintained for daylight sighting at intersections;

“**Solicit**” means to sell, take orders, receive contributions, distribute advertising material, or samples of any product or service not associated with an establishment subject to a **Permit**;

“**Township**” means the Corporation of the Township of Centre Wellington or the land within the geographic limits of the Corporation of the Township of Centre Wellington as the context requires;

“**Township-owned land**” means any **Property**, **Sidewalk**, **Highway** or land that is owned or maintained by the **Township** or the County of Wellington;

“**Unsafe Condition**” means any condition that poses or constitutes an undue or unreasonable hazard or risk to life, limb or health of any **Person**;

“**Weather Resistant Materials**” means a weather-resistant product can that resist exposure to a range of weather conditions, from sunlight and heat to humidity.

2 General Provisions

2.1 No **Person** shall place, erect, construct, keep or operate a **Sidewalk Café**, **Sidewalk Patio** or **Sidewalk Display** on a **Sidewalk**, **Highway** or **Township-Owned lands** without a **Permit**.

2.2 No **Person** shall own, operate, place, erect, construct, keep, maintain, cause or permit to be operated, placed, erected, constructed or maintained a **Sidewalk Café**, **Sidewalk Patio** or **Sidewalk Display** other than in accordance with the provisions of this By-law, the terms and conditions of a **Permit**, a **Permit**, and the approved plans.

- 2.3 No **Person** shall own, operate, place, erect, construct, keep, maintain, cause or permit to be operated, placed, erected, constructed or maintained a **Sidewalk Café, Sidewalk Patio, or Sidewalk Display** other than in a **Central Business District**.
- 2.4 No **Person** shall own, operate, place, erect, construct, keep, cause, maintain or permit to be operated, placed, erected, constructed or maintained a **Sidewalk Café or Sidewalk Patio** other than between the period of April 15th and October 31st.
- 2.5 No **Person** shall operate or permit to be operated a **Sidewalk Café or Sidewalk Patio** from 11:00 p.m. one day to 7:00 a.m. the following day, unless otherwise approved by the **Managing Director of Infrastructure Services**.
- 2.6 No **Person** shall operate or serve or permit to be operated or served a **Person** outside the area of the approved plans of a **Sidewalk Café or Sidewalk Patio**.
- 2.7 No **Person** shall serve alcohol other than in accordance with a licence issued by the Alcohol and Gaming Commission of Ontario.
- 2.8 No **Person** shall sell, serve or consume or cause to be sold, served or consumed alcohol on a **Sidewalk Patio** after 10:00 p.m.
- 2.9 No **Person** shall **Solicit** in a **Sidewalk Café or Sidewalk Patio**.
- 2.10 No **Person** shall install, construct, erect or cause to be installed, constructed or erected a tent or other roofed structure on a **Sidewalk, Highway or Township-owned lands** without approval from the **Township**.
- 2.11 No **Person** shall own, operate, place, erect, construct, keep, maintain, cause or permit to be operated, placed, erected, kept, maintained or constructed a **Sidewalk Display** between the hours of 9:00 p.m. one day and 7:00 a.m. the following day between the period of November 1st and April 14th.
- 2.12 No **Person** shall construct or permit to be constructed a **Pedestrian Platform** without the approval of the **Township**.
- 2.13 No **Person** shall own, place, erect, keep or maintain, cause or permit to be placed, erected, kept or maintained a bench on a **Sidewalk, Highway or Township owned lands** between the period of November 1st and April 14th unless expressly approved by the Managing Director of Infrastructure Services.

3 Application for a Permit

- 3.1 A **Person** making an application for a **Sidewalk Café** or a **Sidewalk Patio Permit** shall submit:
 - (a) a complete application in the form provided by the **Township**;
 - (b) when applicable, the Business Name Registration and/or Articles of Incorporation obtained from the applicable provincial or federal Ministry;
 - (c) plans that show the design and layout of the **Sidewalk Café or Sidewalk Patio** and compliance with the standards set out in this By-law;
 - (d) plan and elevation (street level view) drawings of the proposed **Sidewalk Café or Sidewalk Patio** that shows all features within the **Sidewalk Café or Sidewalk Patio** envelope including furniture, lighting, utilities (poles, vaults, valves), trees, bike racks, benches, hydrants, shelters, manholes, traffic signs, catch basins, awnings and any other physical or drainage feature of the **Highway** within six (6) metres (19.7 feet) of any public utility that may be affected by the **Sidewalk Café or Sidewalk Patio**;
 - (e) where applicable, details about the **Sidewalk Café or Sidewalk Patio** surface and how elements will be affixed to the surface;
 - (f) a certificate of insurance in a form satisfactory to the **Township** naming the **Township** as an additional insured with a coverage limit not less than five (5) million dollars in Commercial General Liability;
 - (g) where applicable, a certificate of insurance in a form satisfactory to the **Township** naming the County of Wellington as an additional insured with a coverage limit not less than five (5) million dollars in Commercial General Liability;

- (h) an acknowledgement that any damage to Township-owned land and public infrastructure associated with the Permit Holder's use of said lands, the Permit Holder agrees to pay for the full cost plus a 20 percent administration fee to remediate the damage;
 - (i) any other documents as may be required by the **Township** to the satisfaction of the **Township**;
 - (j) the required application fee, approval and inspection fees as provided for in the **Township's Fees and Charges By-law**.
- 3.2 In addition to the submission requirements outlined in Section 3.1, a **Person** making an application for a **Sidewalk Patio Permit** shall submit:
- (a) a copy of the liquor licence issued by the Alcohol and Gaming Commission of Ontario.
- 3.3 A **Person** making an application for a **Sidewalk Display Permit** shall submit:
- (a) a complete application in the form provided by the **Township**;
 - (b) when applicable, the Business Name Registration and/or Articles of Incorporation obtained from the applicable provincial or federal Ministry;
 - (c) plans that show the design and layout of the **Sidewalk Display** including furniture, lighting, utilities (poles, vaults, valves), trees, bike racks, benches, hydrants, shelters, manholes, traffic signs, catch basins, awnings and any other physical or drainage feature of the **Highway** within six (6) metres (19.7 feet) of any public utility that may be affected by the **Sidewalk Display**;
 - (d) a certificate of insurance in a form satisfactory to the **Township** naming the **Township** as an additional insured with a coverage limit not less than two (2) million dollars in Commercial General Liability;
 - (e) any other documents as may be required by the **Township** to the satisfaction of the **Township**;
 - (f) the required application fee, approval and inspection fees as provided for in the **Township's Fees and Charges By-law**.
- 3.4 Acceptance of an application does not constitute approval of the application or oblige the **Township** to issue a **Permit**.

4 Permit

- 4.1 The **Managing Director of Infrastructure Services** is hereby delegated authority to issue a **Permit** in accordance with the provisions of this By-law and the applicable Schedule(s) to this By-law.
- 4.2 The **Managing Director of Infrastructure Services** is hereby delegated authority to refuse to issue a **Permit** or impose additional terms and conditions on a **Permit** that in the opinion of the **Managing Director of Infrastructure Services** are reasonable and taking into consideration:
- (a) the health, safety and well-being of **Persons**, pedestrians and vehicular traffic;
 - (b) potential interference the **Sidewalk Café**, **Sidewalk Patio** or **Sidewalk Display** may have on the intent and purpose of the use of the **Township-owned lands, Sidewalk or Highway**;
 - (c) risks of property damage;
 - (d) creation of a violation of any **Township** By-law, **Township** policy or **Township** resolution, provincial or federal legislation;
 - (e) **Township** or County of Wellington construction or work activities;
 - (f) potential interference with any utility, catch basins, water and gas valves, valves or other works installed on **Township-owned lands, Sidewalk or Highway**.
- 4.3 The **Managing Director of Infrastructure Services** may limit the number of **Permits** issued in each **Central Business District** taking into consideration the items listed in Section 4.2.

- 4.4 The **Managing Director of Infrastructure Services** may issue a **Permit** where minor modifications to the location, boundary and configuration of the **Sidewalk Café** or **Sidewalk Patio** requirements of this By-law are made but achieve the overall intent of the provisions of this By-law.
- 4.5 A **Permit** issued by the **Township** is non-refundable and is not transferable.
- 4.6 A **Permit** issued pursuant to this By-law is valid for the current calendar year in which it is issued.
- 4.7 A **Permit** may only be issued where the use of the establishment complies with the **Township's** zoning By-law and the **Permit** is for a use that is accessory to the establishment's use.
- 4.8 The **Township** upon the expiry of a **Permit** and being satisfied that the **Highway, Sidewalk** or **Township-owned lands** has been restored to its original condition shall refund the security deposit to the **Permit Holder**.

5 Terms and Conditions of a Permit

- 5.1 Every **Person** who has been issued a **Permit** shall:
- (a) maintain the area in a neat, tidy and safe working condition;
 - (b) maintain the 1.8 metre **Clearway**;
 - (c) not store a refuse container or refuse on a **Highway, Sidewalk** or **Township owned land** other than in accordance with the County of Wellington's Curbside Collection of Waste, Organics and Recyclables By-law;
 - (d) not install or permit the installation of a permanent structure on a **Highway, Sidewalk** or **Township-owned land**;
 - (e) not lag or permit to be lagged a fence into a **Sidewalk, Highway, or Township-owned land**;
 - (f) not use or permit to be used a solid fuel burning device on a **Highway, Sidewalk** or **Township-owned land**;
 - (g) comply with the **Township's** Noise By-law and the **Township's** Sign By-law;
 - (h) comply with the requirements and standards established by this By-law;
 - (i) not prepare or cook food including cooking food on a barbeque on a **Highway, Sidewalk** or **Township-owned land**;
 - (j) in the case of a **Sidewalk Café** or **Sidewalk Patio**, secure and store the furniture and any other items, objects, structures, chattels and fixtures when not in use outside the hours of operation as provided for in this By-law;
 - (k) not permit a waiting line for a **Sidewalk Café** or **Sidewalk Patio** to **obstruct a Clearway**;
 - (l) ensure all items, objects, structures, chattels, furniture and fixtures are contained within the approved **Sidewalk Café** or **Sidewalk Patio** defined area;
 - (m) provide furniture that is accessible for use by a **Person** with a disability;
 - (n) in the case of the **Sidewalk Display**, ensure all items, objects, structures, chattels, furniture and fixtures are removed from the **Sidewalk** at the end of each day with the exception of decorative planters or a bench that are displayed in accordance with this By-law;
 - (o) comply with all provincial or federal legislation including the *Smoke Free Ontario Act, 2017, S.O. 2017, c. 26*, as amended, and its regulations;
 - (p) remove all items objects, structures, chattels, furniture and fixtures from the **Sidewalk Café, Sidewalk Patio** or **Sidewalk Display** area within three (3) days after expiry of the **Permit**;
 - (q) return the **Sidewalk Café, Sidewalk Patio** or **Sidewalk Display** area to its original condition;

- (r) on behalf of himself, its heirs, executors, administrators and assigns to defend, indemnify and save harmless the **Township**, and, if applicable, the Corporation of the County of Wellington, and their elected officials, officers, employees and agents from and against any and all claims of any nature, actions, causes of action, losses, expenses, fines, costs (including legal costs), interest or damages of every nature and kind whatsoever, including but not limited to bodily injury, sickness, disease or death or to damage to or destruction of tangible property including loss of revenue or incurred expense resulting from disruption of service, arising out of or allegedly attributable to the negligence, acts, errors, omissions, misfeasance, nonfeasance, fraud or willful misconduct of the **Permit Holder**, its directors, officers, employees, agents, contractors and subcontractors, or any of them, in connection with or in any way related to the issued **Permit**. This indemnity shall be in addition to and not in lieu of any insurance provided by the **Permit Holder**;
- (s) not conduct any activity, construction or permit a use on a **Highway, Sidewalk or Township-owned land** that poses a risk to the life or health or damage to a **Highway, Sidewalk or Township-owned land** including trees and plants.

5.2 Every **Person** who has been issued a **Permit**:

- (a) shall not hinder or **obstruct** access by the **Township** or the County of Wellington to a **Highway, Sidewalk or Township owned land**;
- (b) shall remove all items, objects, structures, chattels, furniture and fixtures from a **Highway, Sidewalk or Township owned land** within forty-eight (48) hours of receiving notice from the **Township**;
- (c) acknowledges that the **Township** and the County of Wellington in the case of an emergency may remove all items, objects, structures, chattels, furniture and fixtures that are part of a **Sidewalk Café, Sidewalk Patio or Sidewalk Display** without notice;
- (d) acknowledges that the **Township** and the County of Wellington is not responsible for any damage or loss of any items, objects, structures, chattels, furniture or fixtures that are part of a **Sidewalk Café, Sidewalk Patio or Sidewalk Display**;
- (e) acknowledges that the **Township** and the County of Wellington is not responsible for reinstating a **Sidewalk Café, Sidewalk Patio or Sidewalk Display**.

6 Design and Construction Standards

6.1 A **Sidewalk Café** and a **Sidewalk Patio** located on a **Sidewalk** shall:

- (a) provide a minimum **Clearway** of 1.8 metres;
- (b) provide a minimum entry way of 1.2 metres;
- (c) where there is a curb, be a minimum distance of 0.5 metres from the curb;
- (d) be a minimum distance of 0.5 metres from any streetscape object;
- (e) be a minimum distance of 3.0 metres from the corner of an intersection;
- (f) be a minimum distance of 3.0 metres from a fire hydrant;
- (g) be a minimum distance of 3.0 metres from a raised utility vault;
- (h) meet **Sight-triangle** requirements;
- (i) be located partially or entirely on the **Sidewalk** adjacent to the establishment;
- (j) not encroach on the **Sidewalk** area adjacent to an abutting establishment, unless expressly approved by the Managing Director of Infrastructure Services and its sole discretion.

6.2 A **Sidewalk Café** and a **Sidewalk Patio** located on an On-Street Parking Space shall:

- (a) provide a minimum **Clearway** of 1.8 metres;
- (b) locate the **Clearway** between the curb and the associated building;
- (c) provide a minimum entry way of 1.5 metres;
- (d) be a minimum distance of 1.5 metres from any streetscape object;
- (e) be a minimum distance of 3.0 metres from the corner of an intersection;
- (f) be a minimum distance of 3.0 metres from a fire hydrant;
- (g) meet **Sight-triangle** requirements;
- (h) be designed to not inhibit the adequate drainage of storm water runoff;
- (i) have a reflective post a minimum of 1.2 metres in height located a minimum of 0.5 metres from the edge of the **Sidewalk Café or Sidewalk Patio** closest to the travelled portion of the **Highway** at each corner.

- 6.3 A **Sidewalk Café** and a **Sidewalk Patio** located on an On-Street Parking Space shall:
- (a) be constructed to the same height as the **Sidewalk**;
 - (b) be designed for easy removal and to prevent damage to the underlying roadbed.
- 6.4 A **Sidewalk Café** and a **Sidewalk Patio** shall only be permitted in an On-Street Parking space provided:
- (a) there is a minimum of one on-street parking space located directly in front of the associated establishment.
- 6.5 A combined **Sidewalk** and On-Street Parking **Sidewalk Café** and **Sidewalk Patio** shall:
- (a) meet all the requirements in Sections 6.1, 6.2, 6.3 and 6.4;
 - (b) locate the **Clearway** between the interior boundary of the **Sidewalk Café** or the **Sidewalk Patio** and the associated establishment;
 - (c) have a level transition between the **Sidewalk** portion of the **Sidewalk Café** or the **Sidewalk Patio** and the on-street parking space portion of the **Sidewalk Café** or the **Sidewalk Patio**.
- 6.6 The **Managing Director of Infrastructure Services** may approve the use of a **Pedestrian Platform** as part of a **Sidewalk Café** or **Sidewalk Patio** where deemed appropriate and subject to the **Pedestrian Platform** being:
- (a) 2 metres in width;
 - (b) satisfied with the layout, signage, and construction materials.

7 Furniture Standards

- 7.1 All furniture shall be made of either:
- (a) durable, **Weather Resistant Materials** that are easily cleaned;
 - (b) composite, metal, or painted and stained wood.
- 7.2 Host stands shall be consistent with the furniture provided and shall not be located within a **Clearway**.
- 7.3 Where a **Sidewalk Café** or a **Sidewalk Patio** is located within 1 metre of the exterior front wall of the establishment the following table and chair limits and restrictions shall apply:
- (a) Maximum of 2 sets of two tables;
 - (b) Each table shall have a maximum width of 76 cm and a maximum length of 101 cm;
 - (c) Each table shall a maximum of two chairs;
 - (d) Each chair shall have a maximum width of 76 cm and a maximum depth of 76 cm.

8 Lighting Standards

- 8.1 Lights are permitted as part of a **Sidewalk Café** or **Sidewalk Patio** provided:
- (a) they are located within the boundaries of the **Sidewalk Café** or the **Sidewalk Patio** area;
 - (b) they are directed downward and onto the **Sidewalk Café** or **Sidewalk Patio** area and away from a neighbouring **Property** and the travelled portion of a **Highway**.
- 8.2. Lights shall:
- (a) not exceed 3 metres in height;
 - (b) be restricted to low voltage (12V system). A 120VAC is not permitted;
 - (c) not be connected into a **Township** street light;
 - (d) be turned off by 11:00 p.m. every night;
 - (e) not flash or distract vehicular or pedestrian traffic.

9 Fencing Requirements and Standards

9.1 Fencing shall be installed for a:

- (a) **Sidewalk Patio**;
- (b) **Sidewalk Cafe** located in an on-street parking space;
- (c) **Sidewalk Café** that extends beyond or is not located within 1 metre of the exterior front wall of the establishment.

9.2 Fencing shall be:

- (a) made of durable, **Weather Resistant Materials** that are easily cleaned;
- (b) made of composite, metal, or painted and stained wood or a material that is to the satisfaction of the **Chief Building Official**;
- (c) complementary to the building and surrounding streetscape.

9.3 Fencing shall:

- (a) be a minimum of 0.8 metres to a maximum of 1.1 metres in height from the floor and have a low barrier bar 0.15 metres high;
- (b) form a fully enclosed perimeter.

10 Planter Fence Standards

10.1 Planters may be used in lieu of a fence.

10.2 The planters, with plants shall be:

- (a) a minimum of 0.8 metres to a maximum of 1.1 metres in height from the floor and must be a continuous length to delineate the area and have a low barrier bar 0.15 metres high.

10.3 Planters shall maintain a 0.5 buffer from the curb.

11 Decorative Plant Standards

11.1 Ground planters may be used in a **Sidewalk Café**, **Sidewalk Patio** or **Sidewalk Display** for decoration.

11.2 A ground planter shall not:

- (a) exceed 0.5 metres in width and 1.0 metre in height.

11.3 A ground planter with plant material shall not:

- (a) exceed 1.5 metres in height or interfere with sight lines.

11.4 Notwithstanding any provision of this By-law, a **Person** may place a maximum of two (2) ground planters located on either side of an entrance against the façade of a building or within one (1) metre of a building provided a minimum **Clearway** of 1.8 metres is maintained.

12 Plant Standards

12.1 Plants shall be healthy, living and maintained throughout the season.

13 Umbrella Standards

13.1 An umbrella shall:

- (a) be made of flame and fade resistant material;
- (b) have a minimum height clearance of 2 metres;
- (c) not extend beyond the **Sidewalk Café** or **Sidewalk Patio**.

14 Heating Device Standards

14.1 A **Heating Device** may be used in a **Sidewalk Café** or **Sidewalk Patio** area.

14.2 A **Heating Device** shall not exceed 3 metres in height.

14.3 A **Heating Device** shall meet the applicable CSA, UL or ULC approvals.

15 Occupancy Standards

- 15.1 Occupancy load calculations for a **Sidewalk Café** and a **Sidewalk Patio** shall be in accordance with Part 3 of the **Building Code**, with specific reference to the calculations in Table 3.1.17.1. In calculating the occupancy load calculation for a **Sidewalk Café** and **Sidewalk Patio**, the approved interior occupancy load of the establishment shall be taken into consideration.

16 Sidewalk Display Standards

- 16.1 A **Sidewalk Display** shall:
- (a) be located within 1 metre of the exterior front wall of the building for which a **Permit** is issued;
 - (b) only display wares, services or items for sale at that establishment.

17 Benches

- 17.1 A **Person** may place a bench against the façade of a building or within one (1) metre of a building provided a minimum **Clearway** of 1.8 metres is maintained.

18 Orders and Remedial Action

- 18.1 If an **Officer** determines that an **obstruction** of a **Highway, Sidewalk** or **Township-owned land** exists, the **Officer** may issue an Order requiring the **Owner** of the **Property** from which the **obstruction** comes from, relates to, or was created for, to discontinue causing the **obstruction** and to remove the **obstruction** and repair, as necessary, at the expense of the **Owner**, the **Highway, Sidewalk** or **Township-owned land** so that the **Highway, Sidewalk** or **Township-owned land** is brought back to its former condition prior to the **obstruction**.
- 18.2 Where the order is not complied with in the time period stipulated, the **Township** may remove the **obstruction** and repair, as necessary, the **Highway, Sidewalk** or **Township-owned land** and all the **Costs** incurred by the **Township** in undertaking this work shall be **Costs** owed to the **Township** by the **Owner** of the **Property** from which the **obstruction** comes from, relates to, or was created for.

19 Unsafe Condition – Removal

- 19.1 Notwithstanding Section 18.1, if an **Officer** determines that an **obstruction** of a **Highway, Sidewalk** or **Township-owned land** is, or may create, an **unsafe condition**, the **Officer** may take any action necessary to have the **obstruction** immediately removed and the **Highway, Sidewalk** or **Township-owned land** repaired, if necessary, and all the **costs** incurred by the **Township** in undertaking the work shall be **costs** owed to the **Township** by the **Owner** of the **Property** from which the **obstruction** comes from, relates to, or was created for.

20 Removal, Storage and Disposal of Items

- 20.1 Any items, objects, structures, chattels, furniture, fixtures or **obstructions** removed by the **Township** from a **Highway, Sidewalk** or **Township-owned lands** under this By-law may at the discretion of the **Managing Director of Infrastructure Services**, be deposited at the **Property** from which they come from, relate to, or was created for, or be stored at a **Township** facility for 60 days at the **Owner's** expense.
- 20.2 An item removed under this By-law shall only be released to its **Owner** after the **Owner** has shown proof of ownership and paid the **Township** any **costs** regarding the removal and storage of the item.
- 20.3 An item removed under this By-law that is stored at a **Township** facility for more than 60 days and for which an **Owner** has not been identified may be disposed of by the **Township** in any manner that it deems appropriate.
- 20.4 An item removed under this By-law that is stored at a **Township** facility for more than 60 days and for which the **Owner**, having been identified, has failed to pay the applicable **costs** and claim the item, may be disposed of pursuant to the provisions of the *Repair and Storage Liens Act, R.S.O. 1990, c. R. 25*, as amended.

20.5 The **Township** shall not be responsible for any damage to any item removed and stored.

21 Use of Contractor and Recovery of Expenses

21.1 The **Township** may retain the services of a contractor to carry out any of the work that the **Township** may carry out under this By-law.

21.2 The **Township** shall first invoice the **Permit Holder** to cover any **costs**.

21.3 All **costs** incurred by the **Township** in connection with the enforcement of this By-law shall be paid to the **Township** by the **Person** owing those **costs** and may be collected:

- (a) in the same manner as property taxes by adding the **costs** to the tax roll of the **Property** from which the item on the **Highway, Sidewalk** or **Township-owned lands** relates;
- (b) through court action.

21.4 All **Costs** owed to the **Township** are due and payable within thirty (30) days of the billing date set out on the invoice and, in the event of failure to pay the entire amount due within the said thirty (30) days, interest may be applied at the rate of 1.25% per month (15% annually).

22 Enforcement and Penalty Provisions

22.1 The enforcement of this By-law shall be conducted by an **Officer**.

22.2 An **Officer** may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the By-law is complied with.

22.3 Every **person** who contravenes any provision of this By-law, including failing to comply with an order made under this By-law, is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended, and the Municipal Act, 2001, as amended.

22.4 Any **person** who is charged with an offence under this By-law or an Order issued pursuant to this By-law or every director or officer of a corporation, who knowingly concurs in the contravention by the laying of an information under Part III of the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended and is found guilty of the offence is liable pursuant to the Municipal Act, 2001, as amended to the following:

- (a) on a first offence, to a fine not more than \$50,000.00; and
- (b) on a second offence and each subsequent offence, to a fine of not more than \$100,000.00

22.5 Every **Person** who is issued a Part 1 offence notice or summons upon conviction is guilty of an offence under this By-law shall be subject to a fine, to a maximum as provided for in the *Provincial Offences Act, R.S.O. 1990, c. P. 33*, as amended.

22.6 No **Person** shall hinder or **obstruct**, or attempt to hinder or **obstruct**, any **Officer** exercising a power or performing a duty under this By-law.

22.7 Every **Person** who is alleged to have contravened any of the provisions of this By-law, shall identify themselves to an **Officer** upon request, failure to do so shall be deemed to have hindered or **obstructed** an **Officer** in the execution of his or her duties.

22.8 Upon conviction any penalty imposed under this By-law may be collected under the authority of the *Provincial Offences Act, R.S.O. 1990, c. P. 33*, as amended.

22.9 If a **Person** is convicted of an offence under this By-law, the court in which the conviction has been entered and any court of competent jurisdiction may, in addition to any other remedy and to any penalty imposed, make an order prohibiting the continuation or repetition of the offence by the **Person** convicted.

23 Service of Documents

23.1 Service of any document other than an invoice but including an order, under this By-law may be given in writing in any of the following ways and is effective:

- (a) when a copy is delivered to the **Person** to whom it is addressed;
- (b) on the 5th day after a copy is sent by registered mail to the **Person's** last known address;

(c) where service is unable to be done under subsections 23.1 (a) or 23.1 (b), notice may be given by placing a placard containing the terms of the document or order in a conspicuous place on the **Property** to which the document or order relate and shall be deemed to be sufficient service on the **Owner**.

24 Severability

24.1 If a court of competent jurisdiction declares any section or part of this By-law invalid, it is the intention of Council of the **Township** that the remainder of this By-law shall continue in force unless the court makes an order to the contrary.

25 Singular and Plural Use

25.1 In this By-law, unless the context otherwise requires words importing the singular shall include the plural and use of the masculine shall include the feminine, where applicable.

26 Repeal

26.1 By-law 2021-14 is hereby repealed.

Read a first, second and third time and finally passed this 25th day of April, 2022.



Mayor – Kelly Linton



Clerk – Kerri O'Kane

Schedule A

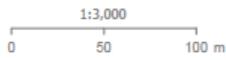
Central Business District Area Map- Elora



Central Business District Elora

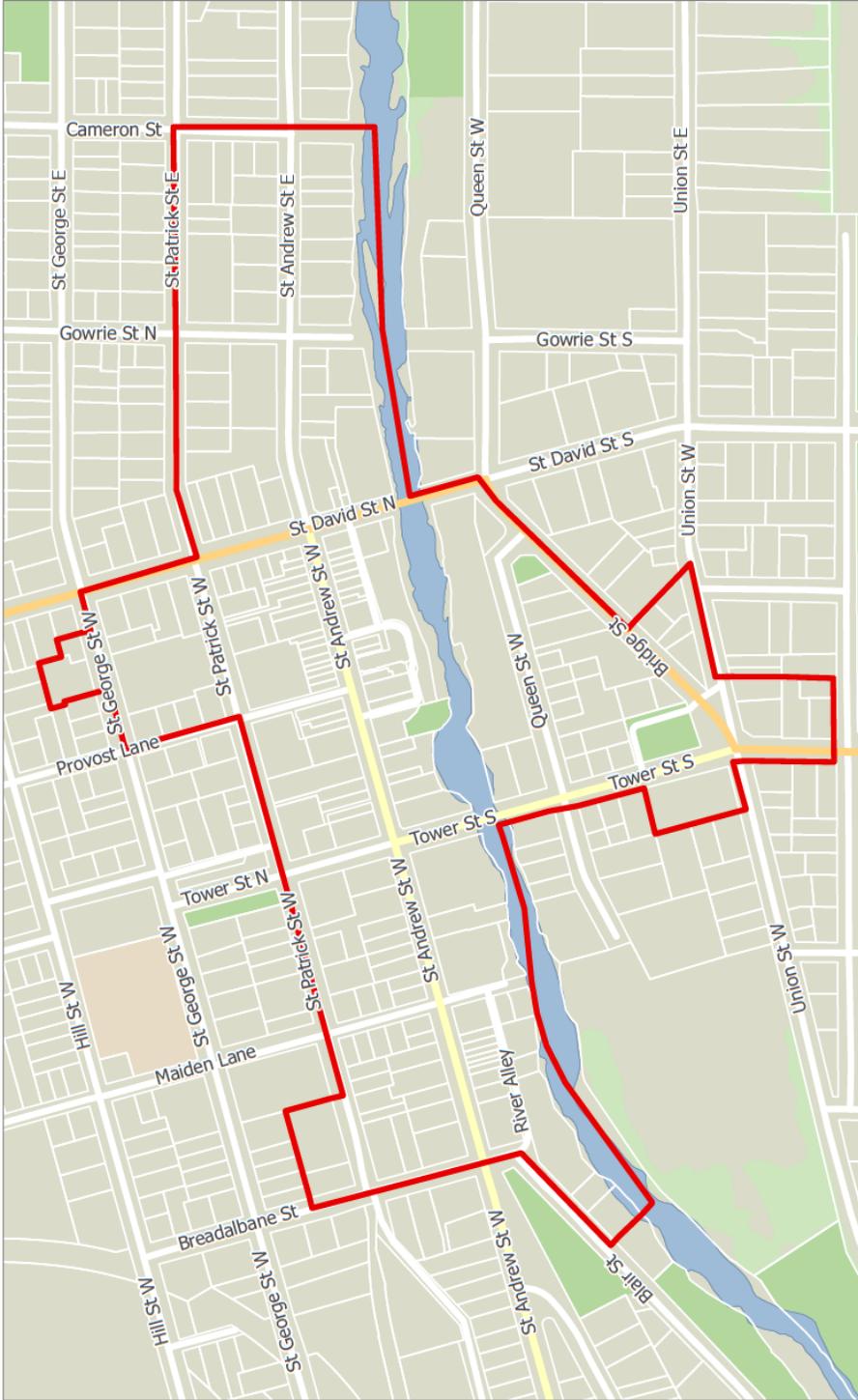
 Central Business District Boundary

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Schedule B

Central Business District Area Map- Fergus



Central Business District Fergus



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