



THE CORPORATION OF THE CITY OF VERNON

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Corporate Policy Manual

Section:	Community Infrastructure and Development	
Sub-Section:		
Title:	Outdoor Commercial Use Permit	

RELATED POLICIES

Number	Title

APPROVALS

POLICY APPROVED BY:	AMENDMENT APPROVAL:	SECTION AMENDED
Approved by: "Victor Cumming" Mayor Date: February 13, 2023		

POLICY

To provide regulations and a permitting process for the use of public, City-owned highways for the purpose of commercial or institutional use such as retail display or patios.

DEFINITIONS

Boulevard has the meaning assigned in the *Motor Vehicle Act* (i.e. **boulevard** means the area between the curb lines, the lateral lines or the shoulder of a roadway and the adjacent property line).

Highway has the meaning assigned in the *Community Charter* (i.e. **highway** includes a street, road, lane, bridge, viaduct and any other way open to public use, other than a private right of way on private property).

On-Street Parking means any space within a highway that is intended for a vehicle to park. The space may be a Metered Space or free of charge.

Outdoor Commercial Use means the commercial or institutional use of a portion of a public highway, such as a sidewalk, boulevard, or on-street parking space, that is adjacent to that commercial or institutional use.

Sidewalk has the meaning assigned in the *Motor Vehicle Act* (i.e. **sidewalk** means the area between the curb lines or lateral lines of a roadway and the adjacent property lines improved for the use of pedestrians).

PROCEDURES

Application

1. An Outdoor Commercial Use Permit will be issued on an annual basis by the Director, Community Infrastructure and Development or their designate. Renewals are administered through annual business license applications.
2. Permits for sidewalk and boulevard use are valid for the full calendar year. Permits for on-street parking use are valid only for the period between March 1 and October 31.
3. Outdoor Commercial Use Permits are only applicable within the Primary and Secondary Business Improvement Areas.

Application Requirements

4. A valid business license for the application year is required for the applicant proposing the outdoor commercial use.
5. Liquor and Cannabis Regulation Branch approval is required for applicants that intend to serve alcohol in the outdoor area.
6. Written approval from neighbouring businesses is required where the building frontage is shared (e.g. multiple businesses are in the same unit or multiple units are in the same building) or where the on-street parking space fronts multiple businesses.
7. Other approvals may be required and are the responsibility of the applicant to obtain (e.g. Interior Health Authority, Landlord, etc.).
8. Liability insurance with a minimum \$2,000,000 coverage for sidewalk and boulevard use or \$5,000,000 for on-street parking use is required. The City shall be named as an additional insured in accordance with Schedule D of the [Traffic Bylaw](#), as amended.
9. A scale drawing of the proposed outdoor area to be used shall be provided and can be hand sketched on the application form page provided. This drawing shall include:
 - a. The length of the business frontage (i.e. directly facing the street);
 - b. Business entrance location and any other doors/exits;
 - c. Width of the sidewalk and boulevard;
 - d. Locations of any street trees, furniture, fire hydrants, and other infrastructure like power poles and parking meters;
 - e. Location of adjacent parking spaces;
 - f. Location of adjacent bus stops or loading zones;
 - g. Proposed location(s) and sizes of structures and/or accessories proposed for the outdoor commercial use.
10. Specification of the height and material to be used for fencing or barriers is required for on-street parking space use.

Design Requirements

11. Outdoor commercial use may be in any form suitable to the nature of the business (e.g. seating for dining, retail display for sale of goods and services, activities to engage clients, etc.) provided the design requirements are met.
12. Mobile vending is not permitted through an Outdoor Commercial Use Permit and shall follow the procedures in the "Mobile Vending Policy", as amended.

13. All proposed structures and/or accessories to be used in the outdoor commercial use area shall be temporary in nature and movable within 24-hours. Accessories shall not damage any public property (i.e. no anchoring into pavement, trees, posts, street lights, etc.), and shall not endanger any underground utilities. Accessories shall not interfere with water drainage (e.g. no covering catch-basins, no re-directing the flow of water).
14. Umbrellas are permitted for shade with a 2.1 m vertical (overhead) clearance. Umbrellas shall not project into the 1.8-metre-wide pedestrian space on the sidewalk. Shade structures affixed to the building, such as awnings, are considered permanent and require a building permit. Tents are not permitted.
15. Certified electric or propane patio heaters are permitted where located at least 3.0 m away from overhead structures or City tree branches. The heater shall be operated per the manufacturer's directions and stored inside when not in use. Solid, gel, or liquid-fuel fire features are not permitted.
16. Any advertising on accessories shall not exceed 10% of the exposed surface area. Third party advertising is not permitted, with the exception of umbrellas. Any other signage requires a Sign Permit, in accordance with the [Sign Bylaw](#), as amended.
17. Any fire department connections shall be visible and accessible.
18. No use of public electrical infrastructure is permitted. No extension cords may cross or project into the pedestrian area.

Sidewalk and Boulevard

19. A 1.8-metre-wide pedestrian space shall be maintained on the sidewalk.
20. Applicants may use the entire length of their frontage (i.e. where the business directly faces the street) for outdoor commercial use on the sidewalk and/or boulevard where there is sufficient width.
21. Where the frontage is shared by multiple businesses, the applicant shall provide written approval from the neighbouring businesses for the proposed use.
22. The outdoor commercial use shall not block the doors of the business or any neighbouring businesses or uses.
23. Outdoor commercial uses may not be located in a bike lane, cycle track, or multi-use path.
24. The outdoor commercial use shall leave 0.25 m of clearance from the curb adjacent to on-street parking for passenger doors to open over curb.

On-street Parking

25. Applicants may use one on-street parking space that is adjacent to their business up to a maximum area of 2.0 metres wide and 6.0 metres long along the curb. There shall be a 0.5 m clearance between the outdoor commercial use and the vehicle travel lane.
26. Where a parking space is in front of more than one business, the applicant shall provide written approval from the neighbouring business for the proposed use.
27. Outdoor commercial uses may not be located in a bus stop, loading zone, accessible parking meter, meter bagged or marked for another use (e.g. 10-minute curbside pick-up), within 5.0 m of a fire hydrant, within 6.0 m of a stop sign, or any other restricted area in the [Traffic Bylaw](#), as amended.
28. All outdoor commercial uses in an on-street parking space shall include a fence or barrier (e.g. planters) to delineate the space from vehicle travel lanes. The fence or barrier shall be constructed of sturdy material that cannot be easily moved into traffic, but may not be affixed to the pavement. The fence or barrier shall be 1.0 m high from the pavement.
29. Any exit gates shall be at least 0.9 m in clear width, and provided with exit signs where the gate is not clearly visible to patrons. The gate shall swing freely outward from the outdoor commercial use, but shall not open into the travel lane
30. A reflective hazard marker sign shall be placed on the corner of the fencing or barrier that faces oncoming traffic. The bottom of the sign shall be at least 1.0 m from the pavement. The hazard marker sign shall follow City specifications for size, colour, and reflectivity, so shall be purchased from the City upon permit approval.

Ongoing Use requirements

31. The use of all outdoor commercial uses shall comply with the [Good Neighbour Bylaw](#), as amended.
32. Cooking or food and drink preparation is not permitted in an outdoor commercial use area.
33. Permit holders are required to keep outdoor commercial use areas clean and tidy and free of garbage at all times.
34. City crews complete street sweeping two to three times per week downtown during early mornings (i.e. 4 a.m. to 7 a.m.). Permit holders that keep structures and/or accessories outdoors in an on-street parking space during these times are asked to sweep within their permitted space and 3.0 m on either side twice per week. Notice may be provided to permit holders to remove their structures and/or accessories overnight to allow crews to complete a more thorough sweep.

35. In an emergency maintenance or repair situation on the public highway, any structures and/or accessories outside will be removed by others to allow for the emergency activities to occur. In a non-emergency maintenance or repair situation on the public highway, notice will be provided to the permit holder to remove their structures and/or accessories to allow activities to occur.
36. Permit holders shall prepare a revised emergency plan for the building and the outdoor commercial use evacuation as needed.
37. Permit holders shall maintain the same occupancy that is permitted inside their commercial or institutional use between the indoor and outdoor spaces combined.

Fees

38. The rental fees for all outdoor commercial uses are outlined in the [Fees and Charges Bylaw](#), as amended.

Permit Expiration

39. Permits will automatically expire at the end of October for on-street parking space use and at the end of December for sidewalk and boulevard use each year. Permits shall be renewed annually along with a Business License.
40. Permits may be cancelled by the City at any time with 24 hours' notice.

Additional Considerations

41. An Outdoor Commercial Use Permit is not transferable to a third party. Only the business named in the permit may use the space.
42. The City of Vernon reserves the right to complete spot inspections and investigate complaints as needed to ensure permit holders are complying with guidelines.
43. Should a permit holder be found in violation of any terms of the Permit, they will be notified in writing at the address on the Permit or hand delivered to the site. Failure to rectify this problem within the allotted time period will result in cancellation of the Permit.
44. Permit Holders will be advised of any changes or amendments to the Outdoor Commercial Use Permit Policy in writing at the address on the Permit, or hand delivered to the site. A 30-day period will be given to existing permit holders prior to the implementation of any changes to the policy.