

RURAL MUNICIPALITY OF GIMLI

BY-LAW NO. 18-0007

BEING a by-law of the Rural Municipality of Gimli for the purpose of regulating the use of public sidewalks “sidewalk patios” and “sidewalk sales”

WHEREAS *The Municipal Act* read in part provides as follows:

232(1) The Council may pass by-laws for municipal purposes respecting the following matters:

- (a) the safety, health, protection and well-being of people, and the safety and protection of property;
- (b) people, activities and things in, on or near a public place or a place open to the public, including parks, municipal roads, recreation centres, restaurants, facilities, retail stores, malls, and private clubs and facilities that are exempt from municipal taxation.

232(2) Without limiting the generality of subsection (1), a council may in a by-law passed under this Division

- (a) regulate or prohibit;
- (d) establish fees or other charges for services, activities or things provided or done by the municipality or for the use of property under the ownership, direction, management or control of the municipality

AND WHEREAS the Council of the Rural Municipality of Gimli deems it in the interest of the community to regulate the use of public sidewalks for “Sidewalk Patios” and/or “Sidewalk Sales”.

NOW THEREFORE the Mayor and Council of the Rural Municipality of Gimli in council duly assembled hereby enact as follows:

1.0 TITLE

1.1 This by-law may be referred to as the “Sidewalk Sale & Patio By-Law”

2.0 DEFINITIONS

2.1 “DESIGNATED OFFICER” means the By-Law Enforcement Officer appointed or authorized by the Council of the Rural Municipality of Gimli from time to time and for the purpose of this by-law, shall include such

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person(s) as the Chief Administrative Officer is entitled to delegate under his/her authority by the Council of the Rural Municipality of Gimli.

2.2 "DIVIDER" means the fence, railing, or posts with rope that section off the seating area from the remainder of pedestrian sidewalk area.

2.3 "MUNICIPALITY" means the Rural Municipality of Gimli.

2.4 "OCCUPIER" in the case of any property means, any person in actual or constructive possession of the property pursuant to a lease, tenancy license or other right to occupy.

2.5 "OWNER" in the case of any property means, the registered owner of the property according to the current assessment records of the Municipality.

2.6 "PARKING LANE" means the lane way designated for parking of vehicles on municipal streets.

2.7 "PERMIT" means the permission granted by the Municipality in writing.

2.8 "SIDEWALK" means footpath, whether or not paved or improved, intended primarily for the use of pedestrians, that is maintained by the Municipality, and that is set aside for pedestrian traffic only and is for the purpose of giving access to property adjacent hereto.

2.9 "SIDEWALK PATIO" means the area of a public sidewalk used by an existing food service establishment for the purpose of serving food and or alcoholic beverages and meeting the requirements of existing zoning by-laws, Department of Health regulations and/or Manitoba Liquor Control Commission regulations.

2.10 "SIDEWALK SALE" means the sale of dry goods or any other type of goods offered for sale, other than food services, that are wholly owned, leased or consigned by an existing and properly licensed business.

3.0 APPLICATION

3.1 This by-law applies to all commercial property and to all owners and occupiers of commercial property within the Rural Municipality of Gimli.

4.0 STANDARDS

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4.1 Any owner or occupier who fails to comply with any order or notice issued by the Designated Officer, or who allows a violation to continue, contravenes the provisions of this By-Law.

4.2 No owner or occupier shall create or use any public sidewalk area for the use of a "Sidewalk Patio", or a "Sidewalk Sale" unless they are in possession of a valid permit.

4.3 No owner or occupier shall deviate from the approved plans and specifications forming part of the permit.

5.0 DUTIES AND RESPONSIBILITIES OF THE OWNER/OCCUPIER

5.1 SIDEWALK PATIO PERMIT

5.1.1 Every owner or occupier shall allow the Designated Officer to enter any premises at any reasonable time for the purpose of administering and enforcing this by-law.

5.1.2 Every owner or occupier shall obtain a permit in the form attached as Schedule A on an annual basis in connection with the proposed "Sidewalk Patio" prior to commencing the construction or placing of dividers or furniture.

5.1.3 Every owner or occupier shall install a divider to section off the "Sidewalk Patio" from the remainder of the sidewalk used for public pedestrian traffic and which must:

- a) Be operated and maintained in such a manner so that nothing can protrude through the barrier that will constitute a hazard to pedestrian or vehicle traffic.
- b) Be only in front of the commercial property that the sidewalk patio is being operated from and not protrude in front of adjacent properties.
- c) Maintain a minimum of 4 feet for a clear path of travel inward from the curb to the outer edge of the divider for the entire length of the patio. (min passage width for one wheelchair is 4 feet)
- d) Be properly secured to the sidewalk with the approval of the By-Law Officer and, when removed, any damage caused by securing

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said divider shall be the responsibility of the owner or occupier and shall be repaired to the satisfaction of the By-Law Officer.

- e) Be in place only for the period May 1 through October 15. Deviation from this period may be granted at the discretion of the By-Law Officer.

5.1.4 Where alcohol is not served, the divider may be a rope where:

- a) The rope has a 2" circumference and the lowest point is not less than 28" above the sidewalk or parking lane.
- b) The supporting poles are not more than 3 feet apart and are only in front of the commercial property that the sidewalk patio or is being operated from and not protruding in front of adjacent properties.
- c) A minimum of 6 feet for a clear path of travel is maintained inward from the curb to the outer edge of the divider for the entire length of the patio unless otherwise approved by resolution of Council.
- d) Must be properly secured to the sidewalk with the approval of the Designated Officer and when removed any damage caused by securing said divider shall be the responsibility of the owner or occupier and shall be repaired to the satisfaction of the Designated Officer.

5.1.5 A "Sidewalk Patio" permit will not be issued prior to April 1st of each year.

5.1.6 Every owner or occupier shall be responsible to keep the sidewalk patio clean and in a reasonable state of repair at all times. The owner or occupier must place a garbage receptacle within the patio. The owner or occupier shall be responsible for damage to any municipal infrastructure or property (i.e. trees, light standards, sidewalk) located within the sidewalk patio, occurring during the hours that the establishment is open to the public.

5.1.7 Every owner or occupier shall have in force, prior to installation, liability insurance that lists the Municipality as an additionally insured so as to safeguard the Municipality from any liability claims.

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5.2 SIDEWALK SALE PERMIT

- 5.2.1 Every owner or occupier shall allow the By-Law Officer to enter any premises at any reasonable time for the purpose of administering and enforcing this by-law.
- 5.2.2 Every owner or occupier shall obtain all permits in the form attached as Schedule A on an annual basis in connection with the proposed "Sidewalk Sale" prior to any sale or event taking place.
- 5.2.3 Every owner or occupier shall ensure that all means of displaying merchandise for sale shall in no way constitute a hazard to pedestrian traffic or adjacent properties and must maintain a minimum 4 foot unobstructed pathway.
- 5.2.4 Every owner or occupier shall be responsible to have in force a liability insurance that lists the Municipality as an additionally insured so as to safeguard the Municipality from any liability claims.
- 5.2.5 Every owner or occupier shall keep the sidewalk area surrounding the sidewalk sale clean and free of debris and other such material.
- 5.2.6 Only the owner or occupier of the commercial property may take out a sidewalk sale permit for the sale of goods from their business.

6. ENFORCEMENT & PENALTIES

- 6.1 Any owner or occupier who fails to purchase a permit at an annual cost of \$150.00 or follow the standards of this By-Law for sidewalk patios or sidewalk sales, shall be issued a notice of compliance in the form attached as Schedule B attached.
- 6.2 Any and all previously approved Patios will be subject to the terms of this bylaw.
- 6.3 Where in the opinion of the Designated Officer, that a situation dangerous to the public exists, the Designated Officer may take immediate action to rectify the situation.
- 6.4 Where a permit has not been obtained, or a notice of compliance has not been addressed, the person will be subject to having their permit revoked and liable to a fine.

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6.5 Every person who contravenes any provision of this by-law is guilty of an offence. Every person who is convicted of an offence is liable to a fine of not more than 300.00.


6.6 A fine levied and costs charged under this By-law may be collected in any manner in which a tax may be collected or enforced under The Municipal Act.

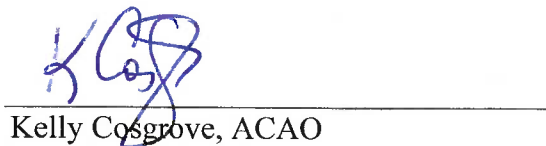
7. Coming into Force

7.1 That this By-Law shall come into full force and effect on April 1, 2020.

DONE AND PASSED in Council duly assembled at the Rural Municipality of Gimli Council Chamber in Gimli, in the Province of Manitoba this 22 day of JANUARY, 2020.

RURAL MUNICIPALITY OF GIMLI


Lynn Greenberg, Mayor


Kelly Cosgrove, ACAO

Read a first time this 23rd day of May, 2018
Read a second time this 8th day of January, 2020
Read a third time this 22 day of JANUARY 2020

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RURAL MUNICIPALITY OF GIMLI

Schedule "A"

By-law 18-0007

Sidewalk Patio, and Sidewalk Sales

PERMIT

Rural Municipality of Gimli (hereinafter called "Owner")
P.O. Box 1246
Gimli, MB
ROC 1B0

and

(hereinafter called "Occupier")

1. Permit Area - On the terms and provisions hereinafter contained the Owner hereby permit the Occupier to use all that portion of the public property described as

2. Permit Periods - From the May 1, until October 15, provided there is no default under the provisions of this Permit, gives the Occupier the right to use the permit area.

3. Permitted Uses - During the Permit Periods the Owner gives the Occupier the right to use the permit area for the operation of a sidewalk sale or patio.

4. Permit Fees - During the Permit Term the Occupier agrees to pay the sum of \$150.00.

5. Additional Costs and Requirements - During the Term of this Permit the Occupier agrees that it will, to the satisfaction of the Owner, do the following:

- i) keep the Permit Area in a neat and tidy condition;
ii) provide the Owner annually with a copy of the "standard" insurance carried by the Operator showing the Owner as an additional named insured.

Dated the ____ day of _____, 2020.

RURAL MUNICIPALITY OF GIMLI

Handwritten signature/initials

RURAL MUNICIPALITY OF GIMLI

Schedule "B"

By-law 18-0007

Sidewalk Patio, and Sidewalk Sales

Civic Address: _____ Roll Number : _____ Legal Description: _____

Date of Notice: _____

Registered Owner
Mailing Address:

Tenant
Mailing Address

Date of Inspection made by designated officer in response to a complaint, concern
or inspection: _____

Description of contravention: _____

We Request that you rectify the situation in the following manner: _____

To Be Completed By: _____

In accordance with section 239 (1) of the Municipal Act, A Designated Officer of the municipality will enter onto the property to conduct a second inspection after the date which the remedy was to be completed. If there has been no compliance with this Notice of Violation, a Fine may be issued.

You co-operation and assistance addressing this contravention is appreciated.

Date of Second Inspection: _____

If you have any questions, please call: _____

Date:

By-Law Enforcement Officer/Designated Officer

