



## **APPLICATION FORM FOR THE TOWN OF INGERSOLL PATIO ENCROACHMENT PILOT PROGRAM**

This application form is being used by persons wishing to apply for the Patio Encroachment Pilot Program offered by the Town of Ingersoll.

The Applicant is required to provide appropriate answers to all questions on the application form. If all prescribed information is not provided, the application will not be accepted.

### **SUBMISSION OF APPLICATION**

Please submit the completed application form and other information as set out herein to:

Town of Ingersoll  
Economic Development Officer  
130 Oxford Street, 2<sup>nd</sup> Floor  
Ingersoll, ON  
N5C 2V5

Attention: Curtis Tighe, Economic Development Officer  
Phone: 519-485-0120 Ext. 6225  
[curtis.tighe@ingersoll.ca](mailto:curtis.tighe@ingersoll.ca)

### APPLICATION FORM

Name of Business: \_\_\_\_\_

Address: \_\_\_\_\_

Main Contact Person: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

#### Terms and Conditions

Please indicate that you have read and understand the Town of Ingersoll Pop Up Patio Pilot Program Guidelines as they relate to location, design and use of municipal space.

\_\_\_\_\_ Please Initial

#### Location

Please indicate which option you are applying for.

**Street Side Patio** – The patio will be located within an on street parking space (s) located in front of your business

**Sidewalk Bump Out** – The patio will be located immediately adjacent to your business and the pedestrian sidewalk swings out and around the patio in a bump out installed in an on street parking space(s).

**Municipal Parking Lot** - The patio will be located in a municipal parking lot located near your business.

#### Application Documents Attached

Prepare plans and drawings of the proposed pop-up installation(s) with dimensions in accordance with the Design Criteria for Pop-up Installations. (Note: plans and drawings must be prepared by a qualified designer with a Building Code Identification Number (BCIN) or an architect, and stamped by a P. Eng.).

**Applicant Name:** (print) \_\_\_\_\_

**Applicant Signature:** \_\_\_\_\_

**Date:** \_\_ / \_\_ / \_\_

**THIS AGREEMENT** made intriplicate this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

**BETWEEN:** **THE CORPORATION OF THE TOWN OF INGERSOLL**  
hereinafter known as "the Corporation"

- AND - **(Business Name)** \_\_\_\_\_  
hereinafter known as "the Licensee" .

## INTRODUCTION

1. The Licensee has applied to the Town of Ingersoll ("The Town") for permission to occupy part of the sidewalk, curb side parking space or other municipal land in the Town of Ingersoll described in **SCHEDULE "A"** "the parcel", for the purpose of operating a pop up patio in conjunction with the abutting lands described in **SCHEDULE "B"**, of the Corporation have now leased by the Licensee.
2. The Town agreed to grant the permission upon the terms and conditions in this agreement and upon the basis of the Corporation's drawing attached as **SCHEDULE "C"**.
3. The Licensee agrees to conform to the Town's Guidelines for Pop Up Patios as attached in **SCHEDULE "E"**.

## AGREEMENT

In consideration of the payment of the license and other fees and deposits, and the terms and conditions of this agreement, the parties agree:

1. That the Corporation permits the Licensee to occupy and use the parcel of land for the purpose of operating a pop up patio eating establishment.
2. That the Licensee agrees:
  - a) Not to use or permit the parcel of land to be used for any purpose other than an eating establishment or cafe in conjunction with the business carried on in the abutting above described property leased by the Licensee,
  - b) To indemnify and save harmless the Corporation against all actions, suits, claims and demands that may be brought against the Corporation and against all loss, costs, charges or expenses whatsoever for damage to property or injury (including death) to any person or persons that may be incurred, sustained or paid by the Corporation by reason of the presence or operation of the pop up Patio on the parcel by the Licensee,

- c) To provide and maintain public liability and property damage insurance (in a form containing endorsements naming the Corporation as an additional named insured and providing a cross-liability clause) in the amount of TWO MILLION DOLLARS (\$2,000,000.00) and satisfactory to the Town Solicitor. A certified copy of the said insurance policy shall be filed with the Town Clerk before receiving approval to occupy the subject space identified in **SCHEDULE "C"** and maintain said insurance during the term of this agreement,
- d) To be solely responsible for all costs in connection with the establishment and operation of the pop up patio. Without limitation, the Licensee shall reimburse the Corporation for all costs incurred by the Corporation in the removal by the Corporation of any moveable planters, street furniture and other items to accommodate the creation of the pop up patio,
- e) To install any hold-down bolts or brackets to the satisfaction of the Town Engineer and so that they will not interfere with pedestrian traffic when tables are not in place,
- f) To prevent the littering of the parcel, the adjoining streets, and other public and private property and to collect such litter from all of these places resulting from the operation of the pop up patio,
- g) To comply with all police, fire and sanitary regulations and by-laws, laws, ordinances, regulations and orders imposed by the Corporation, the Alcohol and Gaming Commission of Ontario, and any other provincial or federal authority to observe and obey the regulations and other requirements governing the conduct of the Licensee's use of the parcel and to save harmless the Corporation from any damages, charges, actions or costs for non-compliance and any liability for costs or other charges for damage to property or injury (including death) to any person or persons arising from the use of the parcel,
- h) To prohibit and to advise patrons of the prohibition of all smoking within the limits of the pop up patio,
- i) To post no smoking signs in accordance with the Town of Ingersoll Smoking Bylaw in conspicuous locations within the limits of the pop up patio,
- j) To comply to and to enforce compliance with the Town of Ingersoll Noise By-law for the pop up patio,
- k) That the Licensee and/or a patron may be fined for any violation of the Town of Ingersoll Noise By-law pursuant to the Provincial Offences Act,
- l) To provide an architectural design of the pop up patio to the satisfactory to the Town Engineer,

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- m) To furnish and maintain at its sole expense any plants and flowers in connection with the establishment and operation of the pop up patio; the Licensee shall bona fide protect all trees, existing plantings and municipal "street furniture" in the public right of-way. Nothing is to be attached by any means to trees,
- n) At its sole expense, to repair and maintain the surface of the parcel throughout the term of this agreement and, upon termination of this agreement, to vacate and to restore the parcel to the satisfaction of the Town Engineer,
- o) Not to make, provide or install any holes or lag bolts unless pre-approved by the Town Engineer,
- p) Not to assign or sublet this agreement or the use of the parcel without the consent of the Corporation; it being acknowledged that such consent may be arbitrarily refused by the Corporation in its sole and uncontrolled discretion. Provided, however, the pop up patio permission and this agreement shall be assignable to and assumable by a bona fide mortgagee or chargee of Licensee's lease of the lands known municipally as \_\_\_\_\_.
- q) To assume responsibility and to pay for any additional costs or charges that the Corporation, Ingersoll Hydro Services Inc., Bell Telephone or Union Gas may incur in the future installation or relocation of their services or utility plants due to the establishment and operation of the pop up patio,
- r) To pay any and all costs incurred by the Corporation for the clean-up of debris in, on and around the area of the parcel,
- s) That the parcel shall be enclosed with a railing of a maximum of 42 inches (106.68 cm) in height,
- t) That there shall be no structures, equipment or furniture fastened to the sidewalk, other than the railing, without the prior approval of the Town Engineer,
- u) To provide a minimum clear width of aisle for pedestrians using the adjoining sidewalk of at least seven and a half feet (2.4 metres) with all queuing of its patrons to be accordingly directed by the Licensee's staff,
- v) That no advertising boards or plaques shall be permitted in the pop up patio enclosure on the adjoining sidewalk or permitted on the railing save and except for a menu to be placed on and parallel to the enclosure or to be totally within the enclosure for the pop up patio,

- w) That the hours of operation of the pop up patio shall be limited to the hours between 10:00 a.m. and 11:00 p.m. daily,
  - x) That upon the close of business each day all chattels, equipment and furniture is removed from the pop up patio and secured to the satisfaction of the Corporation,
  - y) That there shall be no obstruction, encumbrance or interference to any entrance to the building, any building in the vicinity of the pop up patio and the sidewalk area surrounding the pop up patio and specifically not to permit the placement of "sandwich board" signs, planters or to allow bicycles to be affixed to or leaned against the pop up patio railing,
  - z) To pay the Annual Seasonal License Fee shown on **SCHEDULE "D"** together with any appropriate land taxes that may be assessed, and
- aa) To permit one (1) annual inspection of the premises by the By-law Enforcement Office.

### **3. Annual Seasonal Fee**

- a) That the **annual seasonal license fee**, "the fee", for the initial year of this agreement, as established by the Council of the Corporation, shall be paid on the earlier of the execution of this agreement or the date of entry upon the pop up patio area by or for the Licensee, the amount to be pro-rated to such payment date. The fee shall be adjusted to and calculated based upon the area of the pop up patio area as determined by its actual dimensions,
- b) That the fee for the current and subsequent years may be varied in accordance with the license fee fixed by the Council of the Corporation from time to time for pop up patio,
- c) The fee for subsequent years shall become due and payable on or before April 1st in each year, by a lump sum payment of the entire fee or by a series of seven (7) post-dated cheques, each for one-seventh (1/7th) of the fee to be dated and cashed consecutively on the 1st day of each month from April 1st through October 13th and,
- d) That the Licensee shall pay to the Corporation **an application fee** as shown on **SCHEDULE "D"**.

### **4. Late Payments**

- a) That the Licensee shall pay to the Corporation late payment charges calculated at the rate of 1.25% compounded monthly (effective annual interest rate of 16.1%) on the amount of any fee or other payment that is not paid when required by the terms of this agreement, and

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- b) That the payment of any fees, taxes, rates, charges or other expenses under this agreement, together with interest, may be enforced and recovered by the Corporation in the same manner as realty taxes.
5. That this agreement shall take effect on the date it is signed by both parties and shall remain in effect until the date shown on **SCHEDULE "D"**, subject to earlier termination by the Corporation in the event of the Licensee's breach of any terms of this agreement or as, otherwise, provided herein.
6. The permission granted shall extend only from April 1st to October 13<sup>th</sup> of each year during the term of this agreement; the Licensee shall remove all chattels, equipment, fixtures and furniture from the parcel, restore it to the satisfaction of the Town Engineer, vacate the parcel, and deliver vacant possession of it to the Corporation on October 13<sup>th</sup> of each year.
7. That upon the termination of this agreement, the Licensee shall remove all chattels, equipment, fixtures and furniture from the parcel, restore the parcel to the satisfaction of the Town Engineer, vacate the parcel and deliver vacant possession of it to the Corporation.
8. That all notices, demands and requests that may be or are required to be given under the provisions of this agreement by either party to the other shall be in writing and may be mailed or delivered and shall be addressed, in the case of the Licensee, to the Licensee at the address for the establishment and, in the case of the Corporation, to the Town Clerk, Town Centre, 130 Oxford Street, 2<sup>nd</sup> Floor, Ingersoll, Ontario N5C 2V57, or to such other address as the parties may, from time to time, designate by written notice to the other party.
9. That this agreement may be terminated at any time by fourteen (14) days written notice given by the Licensee to the Corporation or by the Corporation to the Licensee. Upon such notice having been given and on the expiration of the fourteen (14) days, this agreement shall terminate, whereupon the Licensee shall forthwith deliver vacant possession of the parcel as set out in paragraph nine.
10. If, due to any emergency, vacant possession of the parcel is required by the Corporation for the purpose of installing, repairing or maintaining water mains or pipes, wires, conduits, sewers, pipes or other public services or utilities and upon receiving notice from the Corporation, the Licensee shall immediately deliver vacant possession of the parcel to the Corporation and remove all chattels, equipment and fixtures from it; provided that, if the Licensee fails so to do, the Licensee shall pay to the Corporation any costs or additional costs, expenses or damages incurred by the Corporation by reason of the failure to so remove all chattels, equipment and fixtures. Such notice shall not terminate but shall only constitute a temporary suspension of the agreement, which shall otherwise remain in force. Following the completion of such work, this agreement shall again be in full force.

11. That, if the Corporation at any time exercises its power or right to terminate or suspend this Agreement, the Corporation shall not be liable to pay any compensation for any loss, costs or damages that may be suffered or incurred by the Licensee or any person claiming under it by reason of such termination or suspension.
12. That, if vacant possession of the parcel is not given to the Corporation or the chattels, equipment and fixtures not removed from it in accordance with the terms of this agreement, the Corporation shall have the right to enter upon the parcel and remove the chattels, equipment and fixtures at the expense of the Licensee. Payment of all such expenses, including storage charges incurred, may be enforced by the Corporation in the same manner as realty taxes.
13. That, if the Licensee is delinquent in the payment of any fees or assessments levied by the Corporation pursuant to any agreement or work carried out by the Corporation, the Town Engineer is authorized to remove the Pop up patio and restore the area to its original condition at the entire expense of the Licensee and charge the expense against the property in a like manner as realty taxes, if payment of any invoice for the removal is not made within ninety (90) days of the invoice date.
14. Notwithstanding any other right or remedy of the Corporation, the Corporation may cancel this agreement and the Town Engineer is authorized to remove the pop up patio and restore the area to its original condition at the entire expense of the Licensee, and charge the expense against the property in a like manner as realty taxes, if payment of any fee, deposit, or other payment required by this agreement, or interest charge on any of these, is not made within fifteen (15) days of the due date, or if the Licensee remains in violation of any other term or condition of this agreement after being given thirty (30) days' notice of such violation.
15. **SCHEDULES "A", "B", "C", "D and "E""** are attached to and form part of this agreement.
16. The Council, the Town Engineer, the Town Solicitor and the Town Clerk are those of the Corporation.
17. This agreement shall be binding upon and ensure to the benefit of the parties to it, and their respective heirs, personal representatives, successors and permitted assigns. It is acknowledged that, if the Licensee sells, conveys, transfers, assigns or enters into an agreement for the sale, the assignment or transfer of any title to or interest in part or all of the **SCHEDULE "A" or "B"** lands (as the case may be) to a purchaser, assignee or transferee not approved of in writing by the Corporation, the Corporation, in its sole discretion, may forthwith terminate this agreement or demand the immediate removal of the pop up patio or forthwith revoke the permission granted for the pop up patio, and may enter upon the **SCHEDULE "A" and "B"** lands in whole or in part and remove the pop up patio and restore the **SCHEDULE "A"** lands and the expense of such removal and restoration shall be paid by the Lessee or by such unapproved purchaser, assignee or transferee forthwith on demand. At the Corporation's option,



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the payment of such expense may be enforced in the same manner as realty taxes payable in respect of the **SCHEDULE "B"** lands, together with interest thereon at the rate of 1.25% compounded monthly (16.1% equivalent annual rate). The Corporation shall not be liable to pay any compensation for any loss, costs or damages that may be incurred by the Licensee, the Owner or by such unapproved purchaser, assignee or transferee by reason of such termination, demand, revocation, entry, removal or restoration.

**THE PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT** as of the day and year first written.

**THE CORPORATION OF THE TOWN OF INGERSOLL**

\_\_\_\_\_  
*Mayor – Edward (Ted) Comiskey*

\_\_\_\_\_  
*Clerk – Michael Graves*

\_\_\_\_\_  
**(Business Name):**

\_\_\_\_\_  
**Signed**

**SCHEDULE "A"**

A parcel of land 5.22 metres (17 feet 1½ inches) long by 1.32 metres (4 feet 4 inches) at its widest point upon the Street road allowance adjacent to the south wall of the tenancy described in SCHEDULE 'B' but not encroaching upon a 2.44 metre (8 foot) setback from the back of curb along the Street. The said length of parcel shall be located such that its point of commencement and termination shall be immediately adjacent to the interior walls that define the tenancy.

A second parcel of land 9.30 m (30 feet 6 inches) by 2.93 metres (9 feet 6 inches) at its widest point upon the Street road allowance adjacent to the east wall of the tenancy described in SCHEDULE 'B' but not encroaching upon a 2.44 m (8 foot) setback from the back of curb along the Street. The said length of parcel shall be located such that its point of commencement and termination shall be immediately adjacent to the interior walls that define the tenancy.

**SCHEDULE "B"**

The lands municipally known as:

**SCHEDULE "C"**  
**Drawing**

**SCHEDULE "D"**

TERM OF AGREEMENT	April 1, 2020 to October 13, 2020
APPLICATION FEE	N/A – Renewal
ANNUAL SEASONAL LICENSE FEE (30.35m <sup>2</sup> x \$25.00)	\$758.75