

# The Corporation of the Municipality of South Bruce By-Law 2013-71

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Being A By-Law to Regulate Activity and Prohibit Obstructions on Sidewalks within the Municipality of South Bruce.

**WHEREAS** Sections 11.1 and 3 of the Municipal Act 2001, S.O. 2001, c 25 as amended gives broad authority to lower tier municipalities to provide any service or thing that the municipality considers necessary or desirable for the public and respecting matters within the sphere of jurisdiction of highways including parking and traffic on highways;

**AND WHEREAS** pursuant to the said Municipal Act Section 8.1 and 9 provide that the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality ability to respond to municipal issues and has the capacity rights powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

**AND WHEREAS** the Council of The Corporation of the Municipality of South Bruce wishes to regulate the use of sidewalks in the Municipality of South Bruce;

**NOW THEREFORE** the council of the Municipality of South Bruce ENACTS AS FOLLOWS:

## 1. DEFINITIONS

1. For the purpose of this by-law.
  - 1.1 **“Highway”** shall mean a public improved road, designed and intended for, or used by, the general public for the passage of vehicles and located within the Municipality of South Bruce.
  - 1.2 **“Roadway”** shall mean the part of the highway that is improved, designed or ordinarily used for vehicular traffic, and includes the shoulder.
  - 1.3 **“Curb”** means a solid edge between a roadway and a sidewalk or boulevard.
  - 1.4 **“Lateral line”** means a line running parallel to that part of the shoulder of a highway which is closest to the exterior boundary of the highway.
  - 1.5 **“Sidewalk”** means that portion of the highway between the curb line of a roadway or lateral line of a roadway, and the adjacent property line, which is set apart for and intended for the use of pedestrians.
  - 1.6 **“Boulevard”** means the area between curb and sidewalk. The boulevard shall include the areas identified as bump outs.
  - 1.7 **“Busking”** means the practice of performing in public places for tips and gratuities. Performances can include musical performance, dance, living statue, balloon twisting, card tricks, and the like.

- 1.8 **"Chief Building Official"** means the Chief Building Official (C.B.O.) of the Municipality of South Bruce.
- 1.9 **"Commercial Area"** means any area designated as "General Commercial" in the existing Zoning By-law of the Corporation of The Municipality of South Bruce
- 1.10 **"Merchant"** shall mean a person who, in the ordinary course of business,
- i) sells tangible personal property;
  - ii) sells or tenders a service, or
  - iii) operates a place of amusement.
- 1.11 **"Pedestrian"** means any person afoot, invalids, children in wheeled carriages, and muscular powered or motorized wheelchairs
- 1.12 **"Place of Business"** shall mean the premises where a business is carried on.
- 1.13 **"Restaurant"** means a building or structure or part thereof used to prepare food and offer for sale for immediate consumption within the building or structure, or adjacent patio and may include an accessory take-out service.
- 1.14 **"Temporary Side Walk Cafe"** means an area of the sidewalk designated directly in front of or beside the Place of Business operating as a restaurant, where tables and chairs and benches may be placed.

## 2. REGULATIONS

- 2.1 No person shall display goods or merchandise for sale or otherwise on a roadway within the Municipality of South Bruce.
- 2.2 No person shall display any goods or merchandise for sale or otherwise on any sidewalk within the Municipality of South Bruce between the hours of 9:00 pm and 8:00 am.
- 2.3 No person shall construct or cause to be constructed any awning or other structure, which projects or otherwise intrudes into the space over any sidewalk unless such awning or structure meets the requirements of the most current Municipal Sign By-law, Municipal Zoning By-law, or any other By-law.
- 2.4 No person shall place a pop up tent or other similar structure on a sidewalk or boulevard unless such tent has been authorized by the Municipality as part of a sidewalk sale event which has been given the approval of the Municipality in accordance with Section 3 of this By-law.
- 2.5 No person shall place any goods or merchandise for sale or otherwise within that part of a boulevard which extends approximately for a distance of 0.60 metres (2 feet) from the curb line or lateral line of the highway towards the adjoining property line, being the area which immediately abuts the roadway.
- 2.6 No person shall place or display any goods or merchandise for sale or otherwise within that given part of the sidewalk a distance of 1.2

metres (4 feet) measured from the outside edge of the sidewalk towards the adjoining property line.

### **3. SIDEWALK SALE**

3.1 Notwithstanding the provisions contained in this by-law, sidewalks within the Municipality of South Bruce may be used by one or more businesses for promotional sales events known as “Sidewalk Sales Days” or such other name as may be chosen, at which time the sidewalks may be used for the outdoor display of merchandise and goods which are normally displayed within the adjoining business premises, provided that no person shall use a sidewalk for such purpose without first obtaining one of the following permits from the Municipality of South Bruce:

- I. Group permit authorizing use of sidewalk by a group of named businesses or organizations.
- II. Individual permit authorizing use of sidewalk by an individual.

3.2 Such permits shall be obtained from the Clerk of the Municipality of South Bruce, or designate, and shall include such information as the Municipality may require and may be subject to such reasonable conditions as the Municipality may impose.

### **4. TEMPORARY SIDEWALK CAFE**

4.1 An owner or occupant of property abutting a sidewalk may establish, operate and maintain a Temporary Sidewalk Cafe for the commercial purpose of providing a seating area for patrons immediately in front of or beside their place of business under the following conditions;

- i) the abutting commercial property must be operating as a restaurant or cafe.
- ii) Sidewalk café fixtures may consist of tables, chairs, and benches;
- iii) furniture and other fixtures are placed, maintained and used on a designated area, approved by the Municipality.
- iv) furniture and other fixtures are not permanently affixed to a Sidewalk;
- v) furniture is restricted to a maximum width of 76cm (30 in.) and a maximum height of 1.2 metres (4 feet);
- vi) a minimum of 1.2 metres ( 4 feet ) clearance must be maintained on the sidewalk for pedestrian travel from the inside edge of the boulevard;
- vii) furniture must be located immediately in front or beside of the place of business; and
- viii) fixtures shall only be displayed during normal business hours.

4.2 Temporary Cafes shall only be located on public property if there is insufficient property in front of the place of business.

4.3 Temporary Cafes are permitted in the General Commercial Area in the Municipality of South Bruce subject to Municipal approval.

## **5. BUSKING**

5.1 Busking shall be permitted in the General Commercial Area all year under the following conditions;

- i) do not use amplification or combustible materials
- ii) do not interfere with pedestrian traffic or impede the ingress or egress of store patrons
- iii) do not create risk to public health and safety

5.2 Applicant must obtain prior authorization from the CBO indicating location, date, time and type of busking.

## **6. PENALTY**

6.1 Any person who contravenes any of the provisions of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in the Provincial Offences Act.

## **7. REPEAL**

7.1 That any By-law including that is inconsistent with this by law is hereby rescinded as of the date of this by-law was approved.

**THAT THIS BY LAW BE READ, ENACTED, SIGNED AND SEALED THIS 24<sup>th</sup> DAY OF September, 2013.**

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**Bill Goetz, MAYOR**

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**Sharon Chambers, CAO/CLERK**

SEAL

**Original Signed**