

Staff Report to Council

Title: Sidewalk and Signage By-law Review

Report Number: Operations-2025-07

Director: Infrastructure & Development

Manager: Operations

Meeting Date:
Wednesday, March 26, 2025

Date to be considered by Council:
Wednesday, March 26, 2025

Recommendation:

That Council repeal By-law 2011-143; and

Further that Council amend By-law 2003-136 as detailed within report Operations-2025-07 to ensure compliance with the Accessibility for Ontarians with Disabilities Act.

Executive Summary:

In Spring 2024, Staff and Council received concerns about uses of the sidewalks along Queen Street within the downtown core area related to compliance with Accessibility for Ontarians with Disabilities Act (AODA), as well as London's Facility Accessibility Design Standards (FADS), which have been adopted by Council. Council directed that there be a review and staff engaged legal counsel regarding the concerns. Counsel provided some immediate recommended actions along with recommendations to amend the existing by-laws related to the sidewalk and signage in the core area. Immediately following the review, businesses were advised that in order to maintain compliance with the AODA the clear path of travel must be free from the placement of temporary sidewalk cafes and temporary signage. To ensure that municipal by-laws support the AODA, staff are recommending that Council repeal By-law 2011-143 and amend By-law 2003-136.

Strategic Priorities:

C.12-Support community wellness in the Municipality of Kincardine

Financial Considerations:

Legal costs associated with a prior review were funded through the 2024 operating budget. The cost of the legal review totaled \$9,605.

Policy:

By-law 2003-136 (Regulate or Prohibit Signs) & By-law 2011-143 (Regulate Use of Municipal Sidewalks)

Context and Background Information:

During the design phase for the Queen Street project, it was determined that there was only enough width to comply with AODA requirements and not the higher width standards set out in the FADs. Concerns were raised in 2024 by the community related to AODA and FADS compliance along Queen Street due to the placement of temporary café tables and sandwich board signage. Staff engaged legal counsel to review details related to compliance with AODA. Legal counsel recommended that the municipality immediately notify downtown businesses to make them aware that to meet AODA requirements temporary café tables had to be removed, and temporary signage had to be relocated within the median/boulevard/utility strip area of the road allowance.

Through review of our existing By-laws, sections within By-law 2011-143 require removal and updates. Section 2.0 relates to sidewalk displays and is recommended for updates within By-law 2003-136 to streamline signage requirements within one By-law. Section 3.0 relates to Temporary Sidewalk Café's which are no longer permitted due to accessibility compliance requirements. The Queen Street corridor lacks sufficient footprint to accommodate placement of sidewalk café's assets while maintaining the required clear path of travel.

The clear path of travel shall be 1,500 mm wide for exterior walkways prescribed by the Act and its Regulation. Section 4.0 relates to Busking and should be considered by Municipal staff in a separate By-law respective of Busking.

By-law 2003-136 regulates and prohibits signage within the Municipality as a whole.

Section 4.8 relates to Free-Standing and Mobile Signs and currently reads:

4.8 FREE-STANDING AND MOBILE SIGNS

- i) The erection of free-standing sandwich-board signs in the commercial C1 zone shall be restricted to 76 centimeter (30 inch) encroachment onto the sidewalk in front of the building. These signs will only be permitted from April 1 to October 31 and shall be restricted to a height of 1.2 metres (4 feet).
- ii) No person shall place a free standing or mobile sign except that only one free standing or mobile sign shall be permitted for a two (2) week period once in each six (6) month period for any given property in the Municipality.

Staff recommend the entirety of section 4.8 be removed from By-law 2003-136 and replaced with the following:

4.8 Portable, Mobile or Sandwich Board Signs

There are numerous amenities already occupying sidewalks, from garbage receptacles, lamp and sign posts, benches, bike racks, to trees, all of which are at a pre-established location. To ensure safety and adequate pedestrian clearance and to prevent unnecessary congestion on road allowances the following guidelines have been established:

- a) One (1) Sandwich Board Sign shall be permitted for display along the frontage of the building for which the business it is promoting is located, or one (1) Sandwich Board Sign for every 8.0 metres (26 ft.) of frontage.
- b) A Sandwich Board Sign shall have a maximum single face sign area of 0.6 square metres (6 sq.ft.), with a maximum sign height of 1.06 metres (3.5 ft.) and a maximum width of 0.6 metres (2 ft.). No sign shall incorporate more than two sides for advertising.
- c) A Sandwich Board Sign shall be setback from the street curb and shall not be located within a sight triangle or impede a pedestrian's or driver's view of any intersection. A sign shall be located within the median/boulevard/utility strip area between parking stalls directly adjacent to the sidewalk to prevent impact from swinging doors. Signage shall not impede a pedestrian's or driver's view of any parking or traffic control sign, signal or device.
- d) A Sandwich Board Sign shall not be erected within 3.0 metres (10 ft.) of another Sandwich Board Sign.
- e) A Sandwich Board Sign may advertise more than one occupant or business contained within a single building or storefront.
- f) A Sandwich Board Sign shall be displayed only during normal business hours, and shall not be on display during winter months (November 1 through April 30).
- g) A Sandwich Board Sign shall not be placed on a municipal sidewalk to ensure it does not impede the free flow of pedestrians on the sidewalk and shall not adversely affect the parking of vehicles or access. A Sandwich Board Sign shall not be placed on snowbanks, planters, or street furniture.
- h) A Sandwich Board Sign shall not be animated, contain any video display elements, be illuminated, have flashing lights, emit sound or have electronic device to create or simulate motion.
- i) A Sandwich Board Sign must display only information on products and services available from the business.
- j) The area around a Sandwich Board Sign must be kept free of litter, debris and weeds.
- k) Where a Sandwich Board Sign is located on a median/boulevard/utility strip or other public property, such applicant shall obtain a permit and provide confirmation that a minimum of \$2 million liability insurance is in effect and the Municipality is named as an additional insured on the policy.

- l) Where adequate frontage exists, a Sandwich Board Sign may be directly located against the building providing it is recessed from the sidewalk, and you have space. Placement directly in front of a building is only permitted when signage does not project onto a sidewalk and the clear path of travel.
- m) No person shall place a free standing or mobile sign except that only one free standing or mobile sign shall be permitted for a two (2) week period once in each six (6) month period for any given property in the Municipality.

Approximately 65% of businesses do not have 60 centimeters (2 feet) of clearance along their storefront without encroaching onto the municipal sidewalk and clear path of travel which must remain clear to maintain compliance with AODA.

Consultation Overview:

Staff completed a review with legal counsel to understand the obligations related to AODA and FADS. Following legal review, communication was provided through a notice to businesses within the downtown core area detailing the immediate impacts and compliance requirements.

The July 2024 legal opinion touches on the Ontario Human Rights Code considerations, but it does not address the Charter of Rights and Freedoms. Staff have not planned or budgeted for a further review, but if Council finds it appropriate to undertake a more significant review, staff will seek a report from legal counsel to be provided to Council with a cost estimate.

Origin:

Council Resolution: 06/12/24 – 13

Whereas the current Sign By-law and Sidewalk By-law requires provisions to adequately address accessibility; and

That Council direct Staff to review the current Signage By-law and Sidewalk By-law to properly take account of the intended purpose of the AODA, the Ontario Human Rights Code and the Charter of Rights and Freedoms; now therefore be it resolved

That Staff bring a report addressing possible amendments to rectify any deficiencies in the current Signage By-law and Sidewalk By-law, with specific reference to Section 4.8 of the Signage By-law and Section 2.0 of the Sidewalk By-law by Q2, 2025.

Implementation Considerations:

The removal of Sidewalk Café's will be captured within the Municipalities Patio By-law; thus, maintaining the opportunity for a business to consider an arrangement through that application process. Notice will be provided to the business community upon Council direction confirming the changes. Updates to include signage within the signage By-law will streamline and strengthen the ability to support signage considerations broadly through review of one corporate policy. Municipal staff will need to consider Busking as a separate consideration outside of the current By-laws framework.

Risk Analysis:

Without an amendment to the existing By-laws, we would permit uses that contravene AODA and put the Municipality at risk of legal actions. It is advisable of Council to no longer permit Sidewalk Cafés and to repeal the respective By-law. Without an update to the signage By-law, placement of temporary signage may also contravene AODA considerations.

Attachments: Sidewalk and Utility Corridor Schematic
By-law 2003-136
By-law 2011-143

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