



TOWN OF STELLARTON

OUTDOOR CAFES AND EATING BY-LAW # 56

1: Purpose

To provide consistent guidelines for food establishments/restaurants (hereinafter referred to as “owner(s)”) when outdoor cafes and eating areas are being considered as a seasonal expansion providing an outdoor dining area within the Town of Stellarton (hereinafter referred to as “Town”).

2: Definition

For the purpose of this by-law, *outdoor cafes and eating areas* are defined as a group of tables and chairs and/or other accessories belonging to the owner establishing the outdoor café and eating areas, situated and maintained upon a public space, including but not limited to sidewalks or pedestrian malls, for the use and consumption of food and beverages sold to the public, from or in the adjoining indoor food and beverage establishment.

3: Requirements

a) Hours of Operation:

The hours of operation for outdoor cafes and eating areas shall be provided with the application. Outdoor cafes and eating areas shall be operated for no longer than the operating hours of the food establishments/restaurants to which it is associated with.

b) Sidewalk use:

- i) Where the outdoor café and eating area inhibits free flow of pedestrian traffic, in the opinion of the Town, the owner shall provide a temporary sidewalk adjacent to the outdoor café and eating area, subject to the approval and specifications of the Town. Consideration will be given for accessibility and for traffic movement and safety based on approval by the

Traffic Authority. Specifications noted shall be those attached as Schedule "A";

- ii) Temporary sidewalks are required when existing sidewalks are reduced below 5 feet (1.5 metres) in width;
- iii) Outdoor cafes and eating areas shall not extend onto the frontage of abutting property owners, unless written permission is obtained from the abutting property owner(s) affected; and
- iv) Temporary sidewalks must be full width of similar material. The use of a portion of existing sidewalk and a temporary sidewalk less than the approved width is not permitted.

c) Design:

The design of the outdoor café and eating area should be consistent with the age and character of the building with which it is associated. As the Town wishes to enhance the aesthetics of the downtown area, the inclusion of the following items shall be considered in the review of all applications:

i) Fencing:

- Outdoor cafes and eating areas shall be fenced and the fencing component shall not exceed 4 feet (1.2 metres) in height;
- Fencing shall be comprised of vertical rails only, but fabric insert panels may be used;
- Fencing should incorporate a solid base perimeter to facilitate identification of the barrier by visually impaired persons;
- Any fencing located within 20 feet (6 metres) of an intersection shall not obstruct the corner vision triangle, as defined in the Land Use By-law.

ii) Sidewalk Guard/Barrier:

- A secure, continuous guard or railing is required along the outside edge of the temporary sidewalk;
- The guard must be able to support horizontal load top rail and be constructed so as to prevent a person from exiting the channelized temporary sidewalk;
- The use of rope and uprights is prohibited.

iii) Umbrellas:

- Umbrellas shall be located entirely within an approved outdoor café and eating area and not protrude into public space.

iv) Waste and Storage:

- The outdoor café and storage area owner shall maintain the outdoor café and storage area, and immediately adjacent areas, in a clean and safe condition at all times;

- Waste receptacles and work stations should be located along the building wall(s). Waste receptacles are to be emptied no less frequently than daily;
- The owner shall ensure any refuse originating in the outdoor café and eating area is removed from the street right-of-way;
- Receptacles specifically for cigarette butts shall be provided for.

v) Access:

- The owner shall maintain a minimum width of 3 feet and 6 inches (1.1 metres) of unobstructed (barrier free) walkway to the entrance of the building.

vi) Lighting:

- Lighting for outdoor cafes and eating areas shall be of a temporary nature and shall not project onto adjacent properties, nor conflict with traffic control indicators.

vii) Furnishings:

- Outdoor café and eating area furnishings, fences, sidewalk guards/barriers, awnings, screens, lighting and other outdoor café and eating area improvements must be removable and not permanently fixed in place;
- All objects must be contained within the area approved for the outdoor café and eating area;
- All objects must be removed during the off season (October 30 through May 1) or after the outdoor café and eating area ceases operation;
- Where the outdoor café and eating area ceases operation prior to the closing date provided, the street, sidewalk, municipal property, or other applicable land must be restored to its original condition, to the satisfaction of the Town Engineer within 14 days from the date of ceasing operation;
- When the operation ceases, as stated in the approval, the street, sidewalk and municipal property must be restored to its original condition to the satisfaction of the Town Engineer.

viii) Noise:

- Music or other entertainment provided for patrons of outdoor cafes and eating areas shall not create a nuisance to abutting or nearby property owners. The Town reserves the right to revoke or amend permits where this nuisance occurs.

ix) Utility Access:

- The Town and public utilities retain the right of access to approved outdoor cafes and eating areas, for the installation, maintenance and repair or affected property or materials;
- In case of emergency, no notice is required to be given, although for scheduled work, a minimum notice of 48 hours is required;
- Outdoor café and eating area improvements shall be removed and reinstalled at the owner's expense.

x) Emergency Vehicle Access:

- The Town retains the right of access to the approved outdoor café and eating area for emergency vehicle access.

4: Approval Process

- 1) No owner shall establish an outdoor café or eating area unless approval has been granted by the Town. Application for approval shall be made to the development officer. An administrative fee of \$100.00 is payable at the time of application. Approval for an outdoor café or eating area includes a development permit issued by the development officer. Information required, as part of the development permit application shall include that outlined in the Land Use By-law (Part 3, Section 14), as well as that information required to ensure compliance with Clauses 3 and 4 contained herein. Prior to approval, applications shall be review by the Traffic Authority and Town Engineer. A written recommendation shall be provided the Town's Committee of the Whole for final endorsement where parking stalls are to be utilized as part of the establishment of a sidewalk café or eating area. Upon completion of the above steps, the required development permit may be issued.
- 2) The application must identify the following sidewalk café/outdoor eating area approval dates:
 - construction/installation start date;
 - construction/installation completion date;
 - operations start date;
 - operations end date;
 - construction/installation removal date.

NOTE: Construction/installation of outdoor cafes and eating areas are permitted after May 1st where approval has been granted. Removal of outdoor cafes and eating areas must be completed prior to October 30th. Removal is to include those measures outlined in this by-law.

- 3) An approved development permit application may be revoked should the guidelines not be met or deficiencies not be satisfactorily resolved. Notification of this

decision will be provided in writing to the applicant, along with those deficiencies identified.

- 4) Revocation of Approval** – When an owner fails to conform with the terms and conditions of approval, the Town may order that the outdoor café and eating area be removed from the public sidewalk or municipal property on which it is located. If the owner fails to comply with such an order within 24 hours of notification, the Town may take such action needed as outlined under the Municipal Government Act to correct the matter at the owner's expense.

5) Insurance:

- i) The owner of an outdoor café or eating area must carry a minimum of \$5,000,000 (CDN) liability insurance for the operation of the outdoor café and eating area and must indemnify the Town and save it harmless from any and all claims of injury to persons or damage to property attributable, in whole or in part, to the existence, location and operation of an outdoor café or eating area in the public right-of-way.
- ii) Proof of insurance is required prior to the permit being issued.
- iii) The Town shall be notified within 10 days of the cancellation of insurance.

6) Operating Season

Operation of outdoor cafes and eating areas shall be from May 15 until October 15, unless otherwise approved.

Schedule A

Sidewalk Café or Outdoor Café and Eating Area Design Specifications

Part 1: General

1. Sidewalk cafes or outdoor eating areas shall be adjacent to a principle use property.
2. Sidewalk cafes or outdoor eating areas shall not extend onto the frontage of a property without abutting property owner(s) written permission.
3. Sidewalk café or outdoor eating areas signage shall comply with any by-law respecting the licensing of temporary signs.
4. Sidewalk cafes or outdoor eating areas shall comply with the Canadian Standards Association (CSA) Accessible Design for the Built Environment, CSA Standard B651, as amended from time to time.
5. The design of the side café or outdoor eating area or the arrangement of the furniture shall not restrict access to emergency exists.
6. The design of the sidewalk café or outdoor eating area or the arrangement o the furniture shall not restrict access to any above ground utility meters or shut-off valves.

Part 2: Barrier

1. All sidewalk cafes and outdoor eating areas licensed to alcohol must be enclosed by a barrier, between the enclosed café or eating area and the sidewalk.
2. The barrier shall be setback at least 1 feet, 6 inches (0.45 metres) from any municipal street furnishings.
3. The barrier shall be installed in such a manner that it does not reduce the unobstructed sidewalk width to less than 5 feet (1.5 metres), failing which, a temporary sidewalk shall be installed by the owner adjacent to the sidewalk café or outdoor eating area.
4. The minimum barrier setback from fire hydrants shall be 4 feet (1.2 metres).

5. Barriers shall be at least 3 feet (0.9 metres) in height and no more than 4 feet (1.2 metres) in height.
6. Barriers higher than 3 feet (0.9 metres) in height shall be placed at least 98 feet (30 metres) away from the nearest intersection.
7. Barrier footing shall not penetrate the sidewalk.

Part 3: Temporary Sidewalks

1. Placement of temporary sidewalks shall not impede vehicular or pedestrian traffic, movement or safety.
2. Temporary sidewalks shall contain a minimum width of 5 feet (1.5 metres) of unimpeded, clear travel way.
3. Temporary sidewalks shall be guarded by an approved traffic barrier at ends exposed to vehicular traffic. The concrete barrier shall be clad with suitable material to improve the aesthetic of the traffic barrier. Reflective signage tape shall be installed on the cladding or covering, so as to provide visibility and definition of the end of the structure at night.
4. Traffic barriers shall be no less than 2 feet 8 inches (0.81 metres) in height and no more than 3 feet 6 inches (1.05 metres) (in total of all elements).
5. Traffic barriers shall incorporate reflectors.
6. Temporary sidewalk surfaces shall be slip resistant.
7. Temporary sidewalk surfaces shall not impede pedestrian movement.
8. Temporary sidewalk construction shall maintain existing drainage patterns and stormwater run-off volumes.
9. An approved pedestrian guard/railing shall be installed between the outside of the sidewalk edge and the vehicular travel way (ie: street). The guard/railing must meet the requirements of the Town Engineer.

Part 4: Decks

1. Decks shall be as close to the elevation of the existing sidewalk grade as possible (accommodating a level surface area and deck framing).

2. Decks shall not be constructed over underground services (such as manholes, valves, etc.), without prior approval from the Town Engineer or applicable utility, and must provide access to the infrastructure to the satisfaction of the Town Engineer or affected utility.
3. Where alter barrier-free access to the principle use property is not available, a ramp shall be provided within the deck area to facilitate barrier-free access.

Part V: Decks

1. Plant material shall be contained within the sidewalk café or outdoor eating area. Required plantings shall give consideration to sidewalk café or outdoor eating area aesthetics and placement.
2. Umbrellas shall be made of non-combustible material and, when open, shall not extend beyond the sidewalk café or outdoor eating area's barrier.

Part VI: Lighting

1. Sidewalk café or outdoor eating area lighting shall not project onto adjacent properties.
2. No sidewalk café or outdoor eating area shall place or permit lighting that, in the opinion of the Town Engineer or Traffic Authority, may:
 - i) Be confused with any traffic signal light, control sign or device;
 - ii) Obstruct or interfere with the movement of motorist or pedestrians at any street intersection, any driveway street connection, or any railway crossing or bridge;
 - iii) Produce or cause glare to motorists, pedestrians or nearby premises;
 - iv) Moves or appears to move.

Date of First Reading: **February 10, 2020**

Date of advertisement of Notice of Intent to Consider: **February 20, 2020**

Date of Second Reading: **March 9, 2020**

I certify that the above **Outdoor Cafes and Eating BY-LAW**
was duly adopted by Stellarton Town Council at duly called meetings and was
published as indicated above.



Town Clerk