

THE CORPORATION OF THE COUNTY OF PRINCE EDWARD
BY-LAW NO. 3372-2014

**A BY-LAW TO REGULATE OUTDOOR PATIOS
ON MUNICIPAL PROPERTY**

WHEREAS Section 10 (1) of The Municipal Act, 2001, S.O. 2001, c.25, as amended, a single-tier municipality may provide any services or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS the Council for the Corporation implemented a Sidewalk Patio pilot program as a trial initiative for the summer of 2013;

AND WHEREAS the Council of the Corporation of the County of Prince Edward considers it desirable to continue to permit and regulate encroachments on municipally owned lands to ensure that the outdoor patios do not hinder pedestrian traffic and/or cause a hazard in any way;

AND WHEREAS the Council of the Corporation of the County of Prince Edward adopts the Policies for the Seasonal Use of Sidewalk Patios and Extended Sidewalks within the general Commercial Zones as attached hereto as Schedule 'A' and forms part of this By-law;

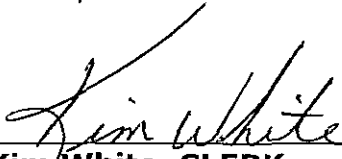
AND WHEREAS the Council of the Corporation of the County of Prince Edward adopts the Design Guidelines for Outdoor Patios as attached hereto as Schedule 'B' and forms part of this By-law.

NOW THEREFORE, the Council of the Corporation of the County of Prince Edward enacts as follows:

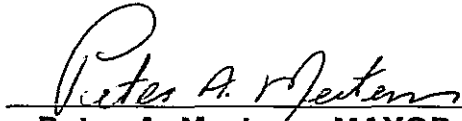
- 1. THAT** Seasonal Outdoor Patios on Municipal Property are permitted within General Commercial Zones in the County of Prince Edward.
- 2. THAT** the Policies for Seasonal Use of Sidewalk Patios and Extended Sidewalks as attached hereto as Schedule 'A' and forming part of this by-law be adopted.
- 3. THAT** the Design Guidelines for Outdoor Patios as attached hereto as Schedule 'B' and forming part of this By-law be adopted.

4. **THAT** the provisions of this by-law shall come into force and effect on the day of final passing.

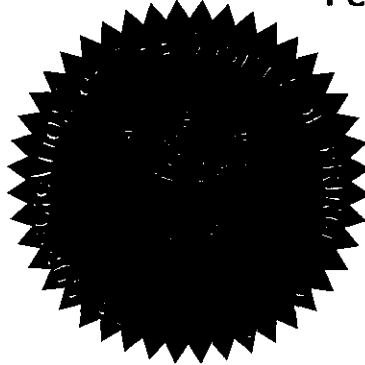
Read a first, second and a third time and finally passed this 25th day of March, 2014.



Kim White, CLERK



Peter A. Mertens, MAYOR



SCHEDULE "A" – By-law 3372-2014

POLICIES ESTABLISHED FOR PERMIT APPLICATIONS FOR THE SEASONAL USE OF SIDEWALK PATIOS and EXTENDED SIDEWALKS WITHIN GENERAL COMMERCIAL ZONES IN THE **COUNTY OF PRINCE EDWARD**

1. Persons wishing to utilize the extended sidewalk portions in the **County of Prince Edward** shall make formal application to the Director of Operations, said application to include pertinent data i.e.: name, address, business, etc.; current restaurant licence; status [a letter from the Alcohol and Gaming Commission of Ontario (AGCO), if applicable]; photographs of the proposed area; a site plan of the proposal; and an elevation plan of the proposal.
2. The application shall be circulated to the Commissioner of Engineering, Development and Works, the **County** Clerk and the Fire Chief to determine if the application meets the **County** standards.
3. The applicant shall be responsible for notifying all immediately adjacent owners and tenants, at the expense of the applicant, of his/her intent to install a sidewalk patio and extended sidewalk in the immediate vicinity of their property/business/residence.
4. In examining the application, the **Director of Operations or his/her designate** are responsible for considering the appropriateness of the design in terms of both convenience and safety of patrons and general pedestrians; in terms of safety for vehicular traffic in the vicinity, especially at corners; in terms of general standards of appearance; and in terms of accessibility requirements under the Accessibility for Ontarians with Disabilities Act (AODA).
5. Current standards of engineering requirements for public services shall be maintained; (i.e.: drainage, fire hydrants, etc.).
6. Where an application is approved, the applicant shall be required to adhere to the terms and conditions contained herein and attached to the permit documents provided by the **Director of Operations or his/her designate**.

Further requirements are as follows:

- a) The application for a sidewalk patio permit conforms to the design guidelines contained in Schedule "B" of the By-Law.
- b) There shall be a permit fee of \$10.00/day, assessed monthly, for the temporary use of the sidewalk and adjacent parking space(s) for a sidewalk patio and extended walkway inclusive. A maximum of two

adjacent parking spaces in front of an applicant's business may be accessed for an extended walkway.

- c) The applicant shall provide the **County** with proof of general liability insurance in the amount of \$2,000,000.00 with the **County** named as an additional insured.
 - d) The applicant is responsible for all costs associated with the acquisition, construction, installation, maintenance, removal and storage of the sidewalk patio and walkway.
7. Approval of an application shall take the form of a temporary use permit authorized by the **Director of Operations or his/her designate**.
 8. The design and operational guidelines for the installation and use of sidewalk patios and extended walkways shall be made available as an information package to applicants and will be attached as conditional requirements to any permits issued under this program.
 9. Although the conditions of the permit are standard, there may be additional requirements imposed by the **Director of Operations or his/her designate** based upon the unique circumstances and location of each proposed patio.
 10. Where the proposed use of the sidewalk is for a licensed patio cafe, the regulations prescribed by the AGCO shall be adhered to unless otherwise stipulated in the County guidelines. A breach of the AGCO liquor license laws will result in immediate revocation of any sidewalk patio permit.
 11. The period of operation for sidewalk patios is established as **May 1st to October 15th** each year.
 12. Sidewalk patio applications shall be accompanied by a non-refundable deposit in the amount of fifty dollars (\$50.00).
 13. The applicant agrees not to encumber or permit to be encumbered, the extended walkway or existing sidewalks surrounding the patio area in any way and to refrain from placing "sandwich board" signs, planters or extraneous advertising objects on the sidewalk or to allow bicycles to be affixed to or lean against the patio fence. The applicant acknowledges that permitting any such encumbrance shall be considered an infraction of this By-Law and subject to enforcement action by the **County**.
 14. All plans submitted for sidewalk patios must generally adhere to the diagram included in the Design Guidelines for Outdoor Patios.
 15. The applicant shall keep their patio and extended walkways clean at all times and shall be responsible for the collection of litter on, and in the immediate

vicinity of the patio resulting from its operation on a daily basis and in a manner acceptable to the **County**.

16. The applicant shall be responsible for the restoration of the site to its former condition at the conclusion of the program.

SCHEDULE "B" – By-law 3372-2014

Design Guidelines for Outdoor Patios

1. INTRODUCTION:

The information contained in this schedule is intended as a general guide in the preparation and review of applications to sidewalk patios and extended walkways in the **County of Prince Edward**.

The Council of the **County of Prince Edward**, its officers and employees are not bound by the information contained within these guidelines, nor are they liable for any reliance placed upon the contents of these guidelines by any person.

2. DEFINITION:

"Sidewalk Patio" - Shall mean an outdoor area used only on a seasonal basis in conjunction with any restaurant where seating accommodation is provided and where meals and or refreshments are served to the public for consumption on the premises and which is located partly or wholly on the **County's** property pursuant to a valid and subsisting temporary use permit as the **County** shall deem appropriate.

3. GENERAL DESIGN PRINCIPLES:

- Maintain a public right-of-way for pedestrian and vehicular movement.
- Ensure a compatible relationship of patio design and construction with adjacent Streetscape Elements and Building Architecture.
- Maintain barrier free access for persons with disabilities and seniors in accordance with AODA requirements at a minimum.
- Provide required unrestricted access to public utilities and service connections, unless with the expressed consent of the owner(s) of such services.
- Provide access for emergency, service and delivery vehicles.
- Maintain a safe, secure and comfortable environment for pedestrians.
- Mitigate any possible harmful impacts on adjacent land uses.
- Enhance the vitality of the street environment.

4. DIMENSIONS:

- The clear width of extended walkways abutting properties should be equal to the sidewalk width in the adjacent areas but may vary from 5 ft. (60 inches) to 8.75 ft. (105 inches). Clear distance may shift within the right-of-way to avoid obstructions.
- The minimum clear height from grade level to any obstruction such as an overhead canopy frame should be 2.4 metres, and if the awning

should have a skirt, a minimum of 2.0 metres clear height should be maintained.

5. FENCES:

- A fence or other vertical barrier should be used to delineate the perimeter of the patio area with exception to openings which are necessary to provide access.
- The width of any opening in a perimeter fence should be no greater than 8 ft. (84 inches) and no less than 4 ft. (48 inches).
- The required height of a fence facing the street is 3 ft. (36 inches) (A.G.C.O. - licensed premises).
- Fences should be removable at all times.
- Fences should be black in colour and have the look of metal or wrought-iron to maintain a consistent appearance throughout the down town core areas.
- A contrasting top rail, preferably marked in white or yellow shall be provided to benefit visually impaired persons.
- The fence style and construction must permit easy visibility through the fence so that pedestrians and patrons are able to see one another and easily see platforms and transitions in order to prevent collisions, trip hazards or other safety issues.
- Fences should be of sturdy construction and secured in such a fashion that they will support the weight of an individual should it become necessary to use the fence to brace oneself to prevent a fall.
- Supporting structural members shall not project to obstruct the surface.
- Perimeter fencing must be located at least 1 metre away from a fire hydrant.
- The applicant shall be responsible for removing and storing all structures off-site outside of the permit period being May 1 to October 15 annually.
- The design, materials and colours used in the development of the patio restaurant should be compatible with the streetscape.
- Final design and installation of any fence must be approved by the **Director of Operations or his/her designate.**

6. AWNINGS:

- Materials should be securely fastened to a frame which is either retractable or demountable.
- Flame resistant sheltering material should be prefabricated and finished to fit the supporting structure.
- Awnings and umbrellas must be contained within the approved area of the sidewalk patio.
- If an awning exceeds 3.5 Metres in width, an eaves trough system for rainwater runoff and temporary connection to appropriate storm drain must be in place and approved by the **Chief Building Official.**

- Material and colours should co-ordinate with the surrounding buildings and streetscape elements. They should generally contribute to the design theme of the street.
- Final design of any awning must be approved by the **Chief Building Official** through a separate building permit process. A building permit is required for any awning.

7. PLATFORMS:

- All decking or platforms should be sectional so as to be easily removable for storage off-site at the conclusion of the program or should repairs or modifications be required during the program.
- Platforms should be supported by posts or ground beams which meet the requirements of the Ontario Building Code.
- The platform structure should not obstruct regular site drainage.
- Skirting should be applied to the exposed side of the platform to screen structural elements.
- All exposed parts of extended walkways should be distinctive in colour and/or texture to demarcate the sidewalk/patio boundary and the transition between surfaces – a brown or other wood-stain finish is recommended.
- The top edge of the curb along the outside of the extended walkway jutting out into the adjacent parking space shall be painted a bright colour - preferably white or yellow – so as to provide greater visibility to passing traffic and provide a visual reference to patrons of the presence of the edge of the platform.
- Where there is to be direct access from sidewalk to sidewalk patios and barrier free access is not available, a ramp should be provided within the deck at a maximum slope of 1:12 (8%) over a maximum length of 9 metres - Ontario Building Code.
- Spaces between platform decking should be no more than 1 cm in width so as not to allow canes, walkers, wheels or other mobility assistance devices from becoming lodged or stuck between them.
- Patio umbrellas are permitted provided they do not impede access or visibility and are secured to prevent injury or damage caused by their blowing into traffic, patrons, pedestrians or windows.
- Final design of any platform must be approved by the **Director of Operations or his/her designate**.

8. FURNISHINGS:

- All tables, chairs and decorative accessories in the patio restaurant should be of an appropriate outdoor furniture design, constructed using weather-resistant materials
- The premises shall not be used or furniture positioned in such a manner as to obstruct exit from the restaurant.

- Chairs and tables shall be kept clear of all existing doorways, sidewalks and laneways adjacent to the patio in the interests of public safety.
- The number of patio chairs and tables must be limited to leave reasonable space for access. Accessibility for wheelchairs should also be ensured.
- All patio objects must be removed from the public boulevard outside of the operating period being May 1 to October 15 annually.

9. LIGHTING:

- All exterior lighting should be task oriented and should not spill into abutting private property or interfere with the public thoroughfare.
- Lighting should be demountable with no exposed cables or energized fixtures.
- Lighting design should co-ordinate with patio furnishings and streetscape design.
- Patio entrances and patio to restaurant entrances, with or without stairs, shall be clearly illuminated when necessary.

10. PLANT MATERIALS:

- There shall be no removal of permanent plantings
- Container plantings are encouraged, but should be readily removable from the site and must respect all other guidelines concerning visibility, accessibility and safety.
- Any planters should be integral with fence and deck structures to maintain a compatible design relationship and shall not infringe on external pedestrian flow.

11. SIGNAGE:

- Advertising is not permitted on **County** property.
- A menu card may be displayed at the entrance within the patio provided it does not obstruct access, encroach on required entrance or walkway widths or obscure patron/pedestrian visibility.
- A-Frame "sandwich board" signs are not permitted on any part of the temporary walkway or sidewalk patio and cannot encumber the walkway or reduce required walkway widths when positioned in the public boulevards.
- Signage may be posted indicating that bicycles and other items are not permitted to encumber the walkways at any time.

12. CLOSING TIME:

- All Patio restaurants must be cleared and closed by 9:00 p.m. EST.

- Individual applicants may elect to remove tables, chairs, planters or any other permitted materials from the patios when not in use but are not required to do so.

13. TRANSITIONS, GRADING AND PAVERS:

- Decking, paving stones or other approved platform materials should be durable, non-slip, skid-proof and easily maintained in a safe, clean and unobstructed condition.
- Transitions between the existing sidewalk/patio area and the extended walkway must be painted yellow to provide a visual reference of the surface change.
- Extended walkway platforms must be installed so that their elevation is flush with the existing sidewalk where the transition occurs.
- The grade of extended walkway decking must be between 1-4% towards the street to facilitate drainage and provide a sufficiently level surface for pedestrians.
- Notwithstanding the general guidelines herein, all grading is subject to the approval of the **Director of Operations or his/her designate**.

14. TEMPORARY CURBING:

- The top of street curbing adjacent to the patio areas shall be painted yellow to provide improved visibility.

15. REFUSE RECEPTACLES:

- Garbage containers are not permitted within the patio area but portable service carts may be used for collection and transportation to the interior restaurant.

16. MAINTENANCE:

- The applicant agrees to keep the premises free from dust, refuse and litter of any kind, and without limiting the foregoing, hereby agrees to wash the patio area periodically during the period that the premises are used as a sidewalk patio.

17. INSURANCE:

- The applicant shall at all times indemnify and save harmless **The County of Prince Edward** from all loss, costs and damages which the **County** may suffer/be at or be put to for or by reason or on account of any matter or thing which may occur, be done or arise by reason of the use of the premises, or of any other property of the **County**, to gain ingress to or egress from the premises or anything which may be done thereon or which may be neglected to be done thereon by the licensee, his agents, servants or others.

- The applicant shall provide and maintain at its sole expense, liability and property damage insurance in the minimum amount of two million (\$2,000,000.00) dollars, with the **County** named as an additional insured, to protect the County as owner of the premises against all liability, and shall submit a proof of insurance certificate, all to the satisfaction of the **Director of Operations or his/her designate.**

18. SUBLETTING:

- Subletting is NOT permitted under any circumstances.

19. OUTDOOR PATIO FIRE SAFETY:

- Chairs and tables made of combustible materials (wood, plastic, etc.) may not be stored up against the building overnight.
- Owners are required to maintain appropriate egress from the patio at all times in case of fire in the building
- Barbeques, propane heaters and other flame producing equipment are not permitted on sidewalk patios.
- An appropriate fire extinguisher should be readily visible and accessible in the immediate vicinity of the sidewalk patio.
- All other applicable rules and regulations concerning outdoor patio fire safety as referenced in the *Ministry of Community Safety and Correctional Services: Technical Guidelines and Reports*, shall be adhered to at all times.

18. SMOKING:

- There shall be no smoking permitted on sidewalk patios due to their proximity to open entrances to the building and to other patrons of the establishment.