

THE TOWN OF ST. STEPHEN

BY-LAW NO. L-9

A BY-LAW RESPECTING A SIDEWALK CAFÉ

BE IT ENACTED BY THE COUNCIL OF THE TOWN OF ST. STEPHEN AS FOLLOWS:

Definitions:

1. The following definitions apply this by-law:

“Building by-law means the Building By-law of the Town of St. Stephen and its amendments thereto

“Council” means the mayor and councillors of the Town of St. Stephen

“Development Officer” means the Development Officer for the Town of St. Stephen appointed by Council

“Neighbourhood Property Owners” means at least two (2) houses/business establishments on either side of the proposed café site and three (3) houses/business establishments across the street.

“Sidewalk Café”: For the purpose of this by-law a sidewalk café is defined as a group of tables and chairs and other accessories situated and maintained upon a public sidewalk or other pedestrian areas for the use and consumption of food and beverages sold to the public from, or in, an adjoining indoor food and beverage establishment.

“Zoning By-law” means the Zoning By-law of the Town of St. Stephen

Approval Requirements:

1. No person shall establish a sidewalk café unless a permit has been granted by the Development Officer of the Town of St. Stephen, who shall consider all available information/concerns and may impose such terms and conditions deemed necessary to conform to the guidelines contained herein.

The applicant shall notify all neighbourhood property owners of the intent to establish a sidewalk café and submit written confirmation of the notification(s) with the application.

Prior to granting an approval, the Development Officer shall refer a completed application to:

- (a) The Traffic Authority (RCMP) of the Town of St. Stephen;
- (b) The Town Engineer of the Town of St. Stephen; and
- (c) The Fire Chief for the Town of St. Stephen.

Upon receiving advice from the above the Development Officer may refuse to grant approval or impose such terms and conditions as are consistent with the guidelines contained herein.

Other Approvals: Approval for a sidewalk café is contingent upon the approval of the Department of Health, the Fire Marshal, and the Liquor Licensing Board (where applicable) and any other regulatory bodies governing the sale of food and/or beverages or the public health.

2. **Appeal:** An applicant may appeal to Council, the Development Officer's decision to refuse to grant approval or the terms and conditions of approval imposed.
3. **Revocation of Approval:** Where a person fails to conform to the terms and conditions of approval, then the Development Officer may order that the sidewalk café be removed from the public sidewalk on which it is located. If the operator fails to comply with such an order within 24 hours notification, the municipality may take such action needed to have the sidewalk café removed.
4. **Permits Required:** The operator of a sidewalk café shall apply for and obtain, annually, a conditional development permit (Schedule "A") prior to commencement and a building permit will be required prior to the installation of barriers, structures and awnings.
5. **Application Fee:** There shall be an application fee in the amount of \$100.00 per year.
6. **Information Requirements:** The applicant should submit a site plan, drawn to a minimum scale of ¼ inch to 1 foot, which shows the delineated area of the proposed sidewalk café and proposed location and placement of planters, awnings, tables, chairs, fences and all other accessories in relation to the public sidewalk and to the indoor restaurant associated with it. The plan shall show (within 6 metres (19.7 ft) of the development) the location of utility poles, hydrants, parking meters, shelters, manholes, traffic signs, catch basins, awnings, easements and any other physical or drainage feature of the street or beyond 6 metres (19.7 ft) of any public utility that may be affected by the development.
7. **Design:** The design of sidewalk café should be consistent with the age and character of the building for which it serves as an accessory use, and where the municipality has established design guidelines for a specific area, these shall be considered in review of applications.
8. **Conditions of Approval:**
 - a) **Insurance:** The operator of a sidewalk café must carry a minimum of \$2,000,000 liability insurance for the operation of the sidewalk café and must indemnify the Town of St. Stephen safe and 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 a sidewalk café in the public right-of-way. Proof of insurance shall be provided before the permit is issued. Such insurance shall require notification to the municipality ten (10) days before cancellation.

- b) **Accessory Use:** Sidewalk cafés shall be located adjacent to an existing food and beverage establishment and shall be considered an accessory use.
- c) **Hours of Operation:** A sidewalk café shall be operated for no longer than the operating hours of the principle use to which it is accessory, and in any event must be closed not later than 11:00 P.M. and not open prior to 7:00AM on any given day.
- d) **Sidewalk Reservation:** The minimum sidewalk reservation to be incorporated in a sidewalk café design shall be 2.1 metres (7.0 ft) wide. The Development Officer may consider reduction of that reservation where the design of the café leaves sufficient clear space for the safe movement of pedestrians, but in no case shall the sidewalk width be less than 1.5 metres (5.0 ft) wide.
- e) **Temporary Sidewalks** Where the sidewalk café extends the width of the existing sidewalk, the operator shall provide temporary sidewalk adjacent of the sidewalk café, (See Schedule “B-2”) subject to the approval of the Town Engineer who shall consider street design and infrastructure issues and the RCMP who shall consider traffic movement and pedestrian safety issues. Unless otherwise approved by the RCMP, the transition from sidewalk to temporary boardwalk shall be designed to provide a 2.1 metre (7 foot) wide unobstructed and level pathway for the movement of pedestrians and other sidewalk traffic from the sidewalk to the temporary boardwalk at an angle of no greater than 45°.
- f) **Fencing:** Sidewalk cafés may be fenced around the perimeter but fences shall not exceed 1 metre (3 ft) in height. Open fencing is preferred to solid fencing, but fabric insert panels may be used. Fencing should incorporate a solid base perimeter to facilitate identification of the barrier by visually impaired individuals. Any fencing located within 6 metres (20 ft) of an intersection shall not obstruct the vehicular view angles as determined by the RCMP. Any and all fencing is subject to regulations and conditions as set out in the Town of St. Stephen’s Zoning By-law
- g) **Structures and Awnings:** The installation of structures and awnings requires a development and building permit and shall conform to the requirements of the Zoning/Building By-laws.
- h) **Umbrellas:** Any umbrellas shall be located entirely within the approved sidewalk café area.
- i) **Waste and Storage:** The sidewalk café operator shall maintain the sidewalk café area, and the immediately adjacent area, in a clean and safe condition at all times. Waste receptacles and work stations should be located along the building wall. The operator shall also ensure any refuse originating in the café area is removed from the street right-of-way.

- j) **Access:** The operator shall maintain a minimum width of 1.1 metres (3 ft 6 in) of unobstructed walkway to the entrance of the building. Barrier free access shall be maintained.
- k) **Landscaping:** Landscaping of the sidewalk café is encouraged but should be of a temporary nature unless otherwise approved. Plant material must be contained within the approved sidewalk café area. Unless the Town Engineer approve otherwise, the outside corners of the temporary boardwalk shall be framed by planters designed and maintained as shown on Schedule B (3 of 3).
- l) **Lighting:** Any lighting of the sidewalk café shall be of a temporary nature and shall not project onto or provide glare on adjacent properties or conflict with traffic control indicators. Such lighting shall be subject to all conditions as set out in the Town of St. Stephen's Zoning By-law
- m) **Location:** The sidewalk café shall not extend beyond the frontage of the property containing the use that the sidewalk café is accessory to unless written permission is obtained from the abutting property owners whose frontage is to be affected by the development.
- n) **Signs and Advertising:** Any signs or advertising within the sidewalk café area shall require a permit and shall conform to the terms and conditions as set out in the Town of St. Stephen's Zoning By-law Z-1.
- o) **Sidewalk Café Furnishings:** All tables, chairs and decorative accessories in the sidewalk café should be constructed using weather resistant materials.
- p) **Removal of Improvements:** Sidewalk café furnishings, fences, awnings, screens, signs, lighting and other sidewalk café improvements must be removable and not permanently fixed in place. All objects must be contained within the approved sidewalk café area and removed during the off-season or after the sidewalk café ceases operation, whichever occurs first. The street, sidewalk and municipal property must be restored to its original condition to the satisfaction of the Town Engineer.
- q) **Noise:** Music or other entertainment provided for patrons of a sidewalk café shall not create a nuisance to abutting property owners and must meet all requirements as set out in the Town of St. Stephen's Noise Control By-law. The Development Officer reserves the right to revoke permits, without reimbursement of fees, where this nuisance occurs. Nuisance may include, but shall not be limited to, police reports of loud, boisterous, or unreasonable noise, offensive language or other disruptive behavior.
- r) **Utility Access:** The Town of St. Stephen and all public utility agencies retain the right of access to the approved sidewalk café area for the installation, maintenance and repair of pipes, cables, wires, poles, hydrants, etc. as necessary. In case of emergency, no notice may be given. For scheduled work, a minimum notice of forty-eight (48) hours will normally be given. In such case, sidewalk café improvements shall be removed and reinstalled at the sidewalk café operator's expense so as to allow access to The Town of St. Stephen and/or public utility agencies.

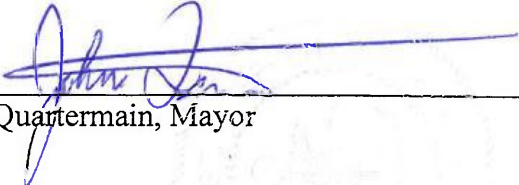
- s) **Emergency Vehicle Access:** The Town of St. Stephen retains the right of access to the approved sidewalk café for emergency vehicle access.
- t) **Season:** Permits granted under this By-Law shall be for the period of May 1st to October 30th, unless otherwise approved by the Development Officer.

IN WITNESS WHEREOF the Town of St. Stephen has caused the corporate seal of the said Town to be affixed to this By-Law the 28th day of January, 2013.

FIRST READING: November 26, 2012

SECOND READING: December 17, 2012

THIRD READING AND ENACTMENT: January 28, 2013



John Quartermain, Mayor



Joan M. Flewelling, Town Clerk



SCHEDULE "A"
TOWN OF ST. STEPHEN
APPLICATION FOR SIDEWALK CAFÉ OPERATION

Name of Business: _____

Contact Person (Title or Position) _____

Address: _____

Tel Number: _____ Fax Number _____

E-mail: _____

Address of Property (if different from above) _____

Please attach a dimensional design of the proposed sidewalk café showing compliance with Sections 6 & 8 of the Sidewalk Café By-law of the Town of St. Stephen.

Please attach a copy of the liability insurance naming the Town of St. Stephen as a co-insured.

APPROVAL

Conditions (attachments)

Effective Date:

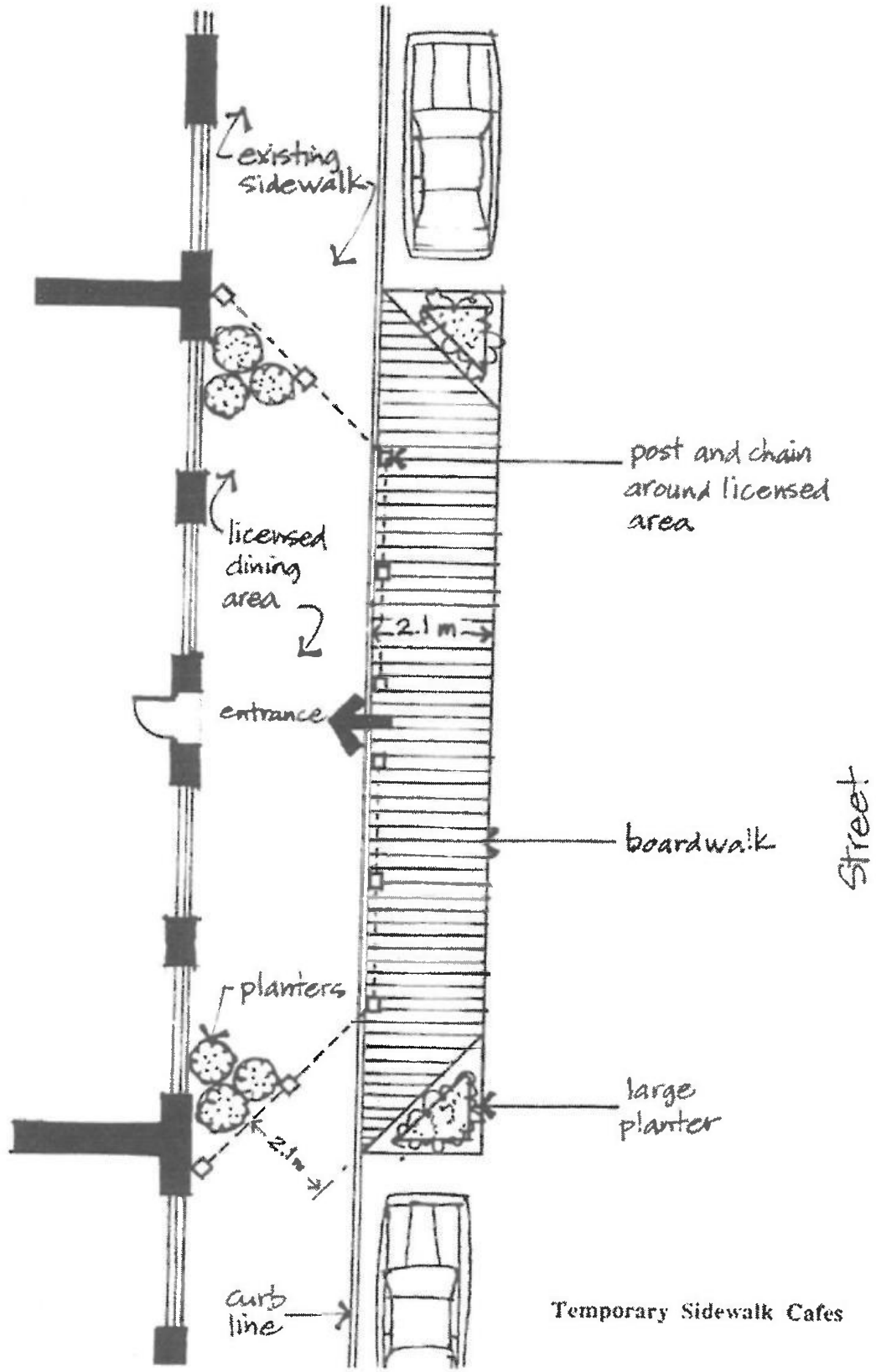
Ending Date:

Development Officer

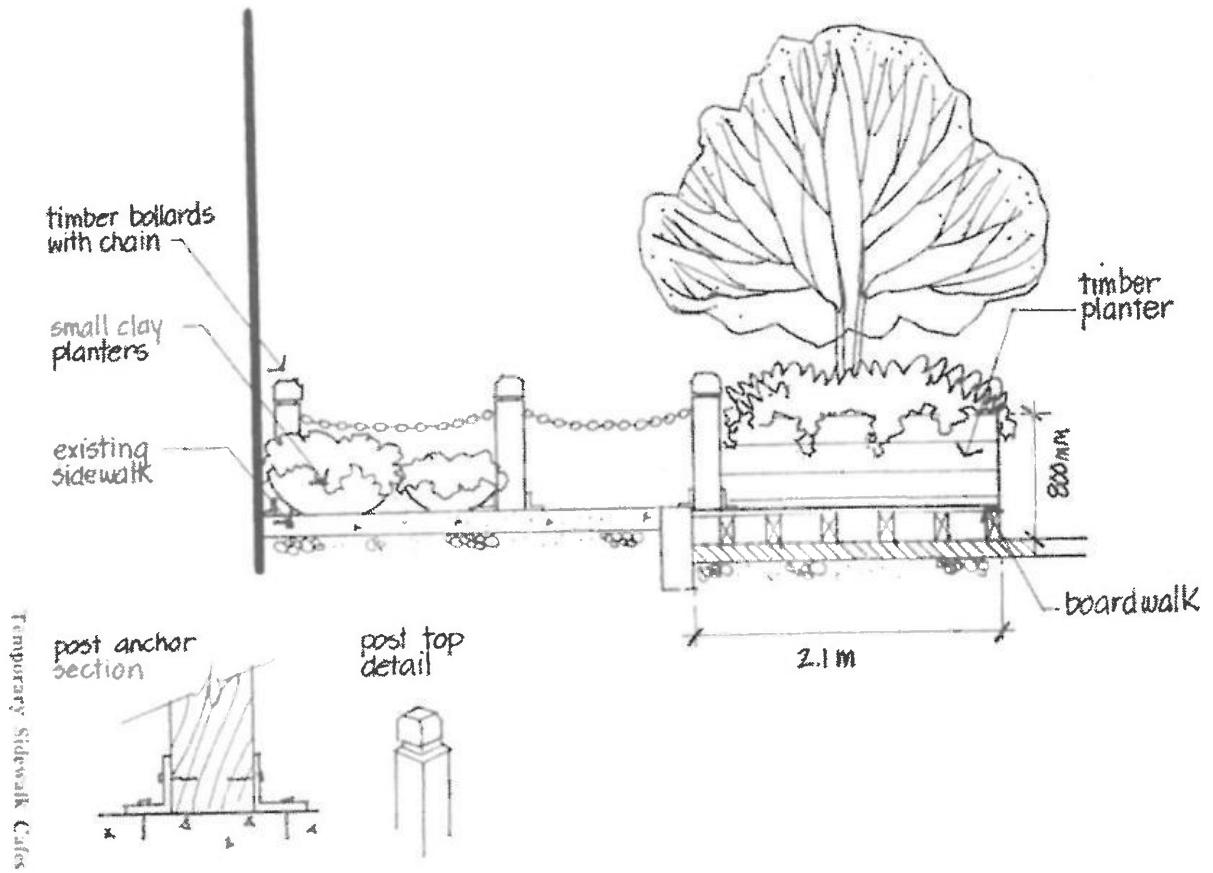
SCHEDULE B (1 OF 3)



Temporary Sidewalk Cafes



SCHEDULE B (3 OF 3)



Temporary Sidewalk Cafes