

THE CORPORATION OF THE TOWN OF COBOURG

BY-LAW NO. 22-2002

**BEING A BY-LAW TO REGULATE THE PLACEMENT,
CONSTRUCTION, INSTALLATION AND
MAINTENANCE OF OUTDOOR PATIOS ON
SIDEWALKS IN THE TOWN OF COBOURG.**

WHEREAS Councils of Municipalities are authorized by various provisions of the Municipal Act, R.S.O. 1990, Chapter M.45, including Section 297(1)(e), Section 308, Paragraph 3, and Section 314, Paragraph 1, to prohibit or regulate the obstruction or encumbering of highways, and to permit any person under such conditions as may be agreed upon to place, construct, instal and maintain objects in, on, under and over sidewalks and highways under the Municipality's jurisdiction;

AND WHEREAS the Council of the Corporation of the Town of Cobourg deems it advisable to enact a by-law for permitting and regulating outdoor patios on sidewalks in the Town of Cobourg;

NOW THEREFORE the Council of the Corporation of the Town of Cobourg enacts as follows:

DEFINITIONS

1. For purposes of this By-law:

- (i) "Applicant" shall mean the person applying for a Permit pursuant to this By-law and shall include the person to whom a Permit has been issued;
- (ii) "Patio By-law Enforcement Officer" shall mean the Chief Building Official of the Municipality or such other person as may be appointed by Council from time to time to enforce the provisions of this By-law and to fulfill the other duties and responsibilities as are set out in this By-law;
- (iii) "Council" shall mean the Council of the Municipality;
- (iv) "Eating Establishment" shall mean a building or part of a building where food is offered for sale or is sold to the public for immediate consumption within the premises or for take-out purposes and includes a restaurant, take-out restaurant, lounge, cafe, cafeteria, ice-cream parlour, tea or lunch room, dairy bar, coffee shop, snack bar or refreshment room but does not include a boarding or lodging house;
- (v) "Highway" includes a common and public highway, street, road or lane under the jurisdiction of the Municipality and includes the boulevards, sidewalks and other untravelled portions of a highway;
- (vi) "Municipality" shall mean the Corporation of the Town of Cobourg;
- (vii) "Outdoor Patio" shall mean an outdoor area where seating accommodation is provided and where meals and/or refreshments may be served;
- (viii) "Permit" shall mean a permit for an outdoor patio issued pursuant to this By-law;
- (ix) "Person" includes an individual, partnership and corporation and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law but shall not include the Municipality; and
- (x) "Sidewalk" shall mean a sidewalk constructed by or on behalf of the Municipality within a highway.

REQUIREMENT FOR PERMIT

- 2. (a) No person shall place, construct, instal, maintain or use an outdoor patio or any part thereof on any sidewalk within the Municipality without having a valid and subsisting Permit issued pursuant to this By-law.

- (b) No person shall permit to be placed, constructed, installed, maintained or used an outdoor patio or any part thereof on any sidewalk within the Municipality without having a valid and subsisting Permit issued pursuant to this By-law.

EXEMPTION

- 3. (a) The provisions of this By-law shall not apply to an outdoor patio that:
 - (i) is not intended to be used for the consumption of alcohol and is not licensed for the consumption of alcohol; and
 - (ii) consists of six (6) or less chairs and two (2) or less tables, each of which table has a surface area of 0.5 square metres or less.
- (b) Any outdoor patio exempted from the provisions of this By-law shall be subject to all other by-laws of the Municipality as are in force and are applicable from time to time.

REQUIREMENTS FOR OUTDOOR PATIO

- 4. No Permit shall be issued for an outdoor patio unless, in addition to the other requirements of this By-law, the outdoor patio:
 - (i) is to be used only on a seasonal basis within the time frames provided in Paragraph 8 of this By-law; and
 - (ii) is to be used in conjunction with and as part of an eating establishment located on private lands adjoining the sidewalk where the outdoor patio is proposed.

APPLICATION FOR PERMIT

- 5. (a) Every application for a Permit shall be duly completed and submitted to the Patio By-law Enforcement Officer together with the required fee and such other material and information as is required by this By-law.
- (b) Every application for a Permit shall:
 - (i) contain a site plan drawn to scale which precisely describes the limits of that portion of the sidewalk within which the Applicant wishes to place, construct, instal, maintain and use an outdoor patio or any part thereof; and
 - (ii) contain a description and illustration of the type and exact number of tables, chairs, signage, awnings, umbrellas, platforms, lighting, decorative accessories, plant materials and containers to be used in conjunction with the outdoor patio and a site plan drawn to scale showing the location and limits of same;
 - (iii) contain a description and illustration of the type, design, height, materials and colour(s) of fencing to be used in delineating the limits of the outdoor patio area and the location of the fencing shall be shown on the site plan required by Section 5(b)(i) and (ii) of this By-law;
 - (iv) contain information as to the name and business address of the Applicant together with a description of the type of business and confirming that the Applicant is the owner or tenant of the lands immediately adjoining the proposed outdoor patio. If the Applicant is a tenant, the written consent of the owner shall be submitted; and
 - (v) contain a statement as to whether or not the outdoor patio is to be licensed for the consumption of alcohol; and
 - (vi) be duly signed and accompanied by the payment of the applicable application fee as established from time to time by resolution of the Council; and
 - (vii) be accompanied by proof of insurance in the amount and in the type described in the Agreement attached hereto and forming part of Schedule "B" to this By-law.

- (c) All plans, drawings and illustrations submitted for outdoor patios shall strictly adhere to the requirements, specifications and diagrams included in the Design Regulations for outdoor patios attached hereto as Schedule "A" to this By-law.

CIRCULATION OF APPLICATION

6. (a) Upon receipt of a duly completed application form and the applicable application fee, the Patio By-law Enforcement Officer shall circulate the application to the Municipality's Operations Department, Building and Planning Department, Police Department, Fire Department, Heritage District Committee and to the local Health Unit for comment, which comments must be provided within thirty (30) days of the date of circulation. In addition, a copy of the application shall be sent to the Municipality's Clerk for placement on Council's agenda in the form of a communication.
- (b) Upon receipt of a duly completed application, the Patio By-law Enforcement Officer shall, within thirty (30) days of receipt of the application, notify by fax or mail all owners and tenants of land according to the Municipality's assessment records within a fifteen (15) metre radius of the Applicant's business, together with the placement of a notice in a newspaper having general circulation in the Municipality. Such notices shall stipulate that comments may be submitted to the attention of the Patio By-law Enforcement Officer on or before the date specified in the notice, which date shall not be less than fifteen (15) days from the date of the notice.

APPROVAL OF APPLICATION

7. The Patio By-law Enforcement Officer shall issue a Permit where:
- (a) the Applicant has complied with all of the requirements of this By-law; and
- (b) a report from the Municipality's Director of Operations and the Municipality's Chief Building Official is received indicating that the proposed use of the sidewalk does not raise any concerns pertinent to their respective areas of responsibility; and
- (c) a report from the Municipality's Chief of Police or delegate indicating that the Police Department has no concerns with respect to the issuance of the requested Permit; and
- (d) a report from the Municipality's Fire Chief is received indicating that the proposed use complies with all applicable standards and regulations with respect to fire protection and prevention; and
- (e) a report from the Haliburton-Kawartha-Pine Ridge District Health Unit is received indicating that the proposed use complies with all applicable health standards and regulations; and
- (f) a report from the Municipality's Manager of Planning Services is received indicating that the proposed use complies with all applicable provisions of the Municipality's Zoning By-law; and
- (g) a report from the Municipality's Heritage District Committee is received indicating that the proposed outdoor patio conforms to the Heritage District guidelines, if applicable; and
- (h) the proposed use for which the Permit is sought would not be contrary to any other by-law of the Municipality, or Provincial or Federal statute or regulation; and
- (i) the Applicant has entered into an Agreement with the Municipality containing terms and conditions satisfactory to the Municipality. The standard form of Agreement is attached hereto and forms part of Schedule "B" to this By-law. While the terms and conditions contained in the Agreement attached hereto as part of Schedule "B" are standard, the Municipality may require additional or different terms and conditions depending on the particulars of the individual application. Every Agreement shall be subject to the approval of Council by by-law passed pursuant to Section 308, Paragraph 3 of the Municipal Act, R.S.O. 1990, c.M.45; and

- (j) the Council has not advised the Patio By-law Enforcement Officer of any concerns with respect to the issuance of the requested Permit within fifteen (15) days of the placement of the application on the Council's agenda as contemplated by Paragraph 6(a) of this By-law; and
- (k) the Patio By-law Enforcement Officer has determined that the Applicant has not previously contravened the provisions of this By-law or any Permit previously issued hereunder nor had any such Permit revoked.

DURATION OF PERMIT/HOURS OF OPERATION

- 8. (a) Every Permit issued pursuant to this By-law shall commence and take effect no earlier than April 1st in any year and shall terminate no later than October 15th in the same year.
- (b) All activity within every outdoor patio shall cease and the outdoor patio shall be closed on or before 11:00 p.m. on every day of the week.

EXPIRATION OF PERMIT

- (c) On or before the 31st day of October in each and every year, the Applicant shall be responsible, at its sole expense, to:
 - (i) remove all objects within and forming part of the outdoor patio (including without limitation, fencing) from the sidewalk; and
 - (ii) to store same in a suitable location on privately owned lands; and
 - (iii) to restore the sidewalk to the same condition which existed prior to the commencement of the Applicant's use thereof.

COMPLIANCE WITH APPROVED PLANS

- 10. (a) No person shall deviate or permit any deviation from the information, description, illustrations and plans for an outdoor patio as approved by the Patio By-law Enforcement Officer at the time of issuance of a Permit for such outdoor patio (herein collectively called "the approved plans").
- (b) The Applicant shall be responsible, at its sole expense, to maintain the outdoor patio at all times in a safe, clean and neat manner and as illustrated on and described in the approved plans.
- (c) The Applicant shall not lean or attach nor permit to be leaned or attached to the fence surrounding the outdoor patio objects such as bicycles, advertising objects, flower planters, etc. unless shown on the approved plans.
- (d) Where flower planters are permitted on the approved plans, the Applicant shall be solely responsible, to ensure that neither the flower planters nor the plant material shall encumber or interfere with pedestrian flow along or adjacent to the sidewalk or highway.

REFUSAL TO ISSUE PERMIT OR REVOCATION

- 11. (a) Where it appears to the Patio By-law Enforcement Officer that an Applicant for a Permit cannot satisfy the requirements of this By-law and should have his or her application refused or that an existing Permit should be revoked for failure to comply with any of the provisions of this By-law or the Permit, the Patio By-law Enforcement Officer shall refer the matter to Council with a recommendation that Council not issue the Permit or that Council revoke the Permit, as the case may be.
- (b) Before Council revokes or refuses to issue a Permit, a written notice advising the Applicant of the recommendation being made by the Patio By-law Enforcement Officer to the Council shall be given to the Applicant.
- (c) The written notice to be given under subsection (b) shall:
 - (i) set out the grounds for the recommendation;
 - (ii) give reasonable particulars of the grounds;

- (iii) be signed by the Patio By-law Enforcement Officer;
- (iv) inform the Applicant that he or she is entitled to a hearing before the Council if he or she delivers within seven (7) days after the date of service of the written notice a written request for a hearing before the Council.
- (d) The provisions of the Statutory Powers Procedure Act, R.S.O. 1990, c.S.22 as amended shall apply to all hearings conducted by the Council pursuant to this By-law.
- (e) Where the Applicant or Permit holder who has been given written notice of the hearing does not attend at the appointed time and place, the Council may proceed with the hearing in his or her absence and the Applicant shall not be entitled to any further notice of the proceedings.
- (f) After the conclusion of the hearing, the Council shall, as soon thereafter as is reasonably practical, make its final decision and shall give reasons in writing therefor if requested by the Applicant. Notice of the decision of Council shall be sent in accordance with the provisions of the Statutory Powers Procedure Act, R.S.O. 1990, c.S.22 as amended.
- (g) Notwithstanding anything in this By-law to the contrary, the Council, in its sole and absolute discretion, may at any time revoke any Permit issued pursuant to this By-law in the following circumstances:
 - (i) Where the Council determines in its sole and absolute discretion that the area occupied by the outdoor patio is required for any public or municipal purpose; or
 - (ii) Where the Council determines in its sole and absolute discretion that the use of the area occupied by the outdoor patio has resulted or will or may result in an unsafe or unacceptable situation notwithstanding the prior review and approval of the Permit by the Council, the Municipality's employees including the Patio By-law Enforcement Officer and any other departments or agencies; or
 - (iii) Where the Council determines in its sole and absolute discretion that the use of the outdoor patio has resulted or will result in noises likely to disturb the inhabitants; or
 - (iv) Where it comes to the attention of the Council that a premium on the policy of insurance required by the Applicant to be maintained, as set out in the Permit has not been paid.

CONTRAVENTION

12. Any Applicant who contravenes any provision of this By-law or any Permit issued hereunder shall upon being notified of such contravention by the Municipality, take the action specified in the notice within the time period specified in the notice, failing which the Municipality is hereby authorized, in addition to any other remedy available at law to the Municipality, to take such action as is required at the said Applicant's expense and if the said Applicant fails to reimburse the Municipality for such expenses within thirty (30) days of written demand, the Municipality shall be entitled to recover the expense incurred in taking such action in like manner as municipal taxes. Notwithstanding the foregoing, where a contravention creates an unsafe condition, in the sole and absolute discretion of the Patio By-law Enforcement Officer, the Municipality shall be entitled, without prior notice, to take such action as is required to remedy the contravention at the said Applicant's expense and if the said Applicant fails to reimburse the Municipality for such expenses within thirty (30) days of written demand, and the Municipality shall be entitled to recover the expense incurred in taking such action in like manner as municipal taxes. Nothing in this Paragraph shall limit or be deemed to limit the remedies available to the Municipality at law.

PENALTY

13. Every person who causes or permits or allows any contravention of this By-law is guilty of an offence and is liable upon conviction to such penalty as is authorized by the provisions of the Provincial Offences Act, R.S.O. 1990, c.P.33.

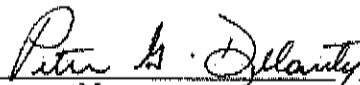
GENERAL

1. (a) If any provision or requirement of this By-law or the application thereof to any person shall to any extent be held to be invalid or unenforceable, the remainder of this By-law or the application of such provision or requirement to all persons other than those to which it is held to be invalid or unenforceable, shall not be affected thereby and it is hereby declared to be the intention of Council that each provision and requirement of this By-law shall be separately valid and enforceable to the fullest extent permitted by law.
- (b) This By-law and any Permit issued pursuant to this By-law shall be administered by the Patio By-law Enforcement Officer for the Municipality in consultation with the Municipality's Manager of Planning Services, Municipal Director of Operations, local Health Unit and such other person or agencies as the Patio By-law Enforcement Officer determines.
- (c) In this By-law, words importing the singular shall include the plural where the context or circumstances require.
- (d) Schedules "A" and "B" attached hereto form an integral part of this By-law and are hereby incorporated in full as part of this By-law.
- (e) The headings in this By-law are for convenience and the use of reference only and shall not be read or construed so as to abridge or modify the meaning of any provision of the main text of this By-law.
- (f) This By-law shall come into force and take effect upon final passing thereof.

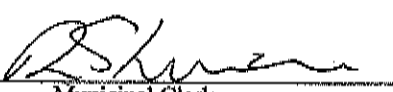
SHORT TITLE

15. This By-law shall be referred to as "the Outdoor Patio By-law".

READ A FIRST AND SECOND TIME THIS 18TH DAY OF MARCH , 2002.

 
 Mayor Municipal Clerk

READ A THIRD TIME AND FINALLY PASSED THIS 2nd DAY OF April , 2002.

 
 Mayor Municipal Clerk

Town of Cobourg Outdoor Patio Design Regulations

*Schedule 'A'
to By-Law #*

22-2002



Principles:

The Town of Cobourg has identified outdoor cafes as having the potential to add to a vibrant downtown streetscape. In keeping with the heritage nature of the Town's commercial core, it is important to recognize and respect the historic architecture of the buildings by adhering to compatible colour and design concepts. These regulations are in place to ensure a safe and comfortable environment for pedestrians.

Additionally, the regulations ensure unrestricted access to public utilities and service connections, as well as access for emergency and delivery vehicles.

In using these regulations, applicants will have a set of principles to follow in designing their outdoor patios.

Any questions should be addressed to the Town's Building Department at 905-372-1005.

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This booklet is intended for use as a reference guide. Please refer to By-law # for municipal requirements.

Separation Distances:

A pedestrian-passing width of 2.4 metres (8 feet) shall be maintained on the public portion of the sidewalk at all times. If a tree, light standard or fire hydrant is present, then a 2.0-metre (7-foot) minimum shall be maintained immediately between the limit of the outdoor patio and the structure (See Figs. 1 i) & ii).

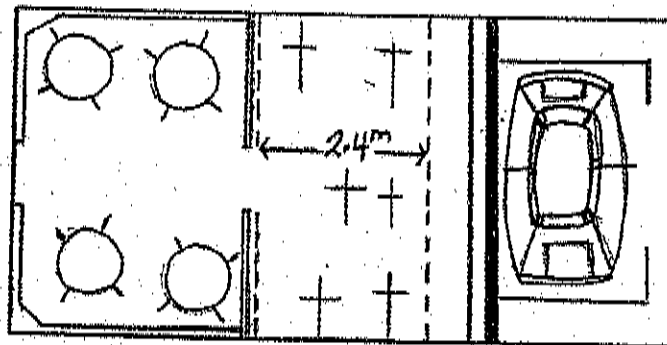


Fig. 1 i) Unobstructed Zone

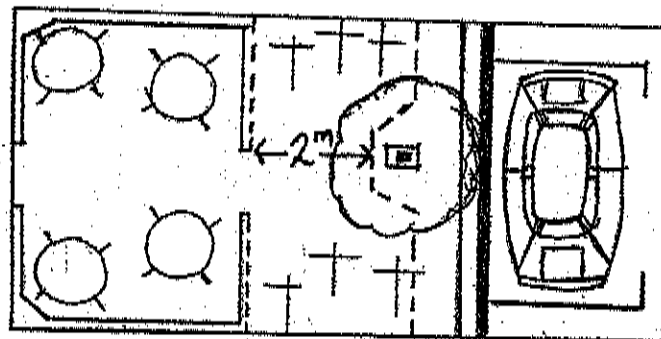


Fig. 1 ii) Obstructed Zone

Fencing:**Colour/Materials:**

Fences must be made of aluminum, metal, or ideally, wrought iron. Black is the only permitted fence colour in the Heritage Conservation District, Commercial Core.

Securing the fence into concrete:

All perimeter fencing shall be securely anchored into a concrete sidewalk, using lag bolts, as indicated in Fig. 2 D). All fencing must be removable and shall be stored off-site during those periods of the year that the outdoor patio is not permitted, as set out in Paragraph 9 in the Outdoor Patio By-law.

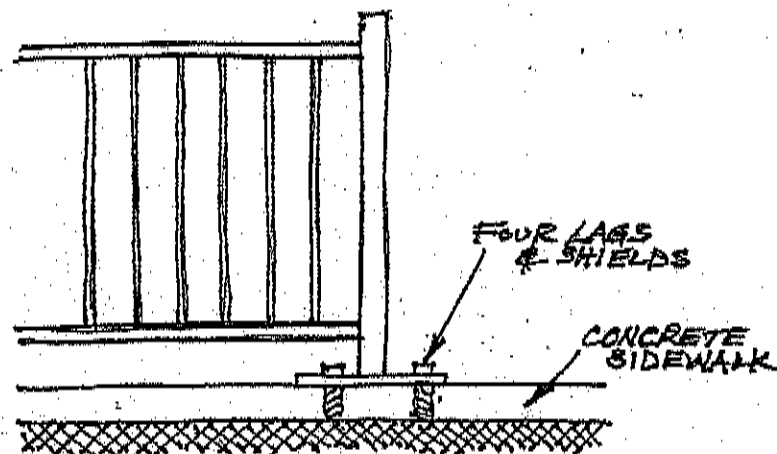


Fig. 2 D) - Anchoring fencing into concrete sidewalks

Securing the fence into interlock:

Where interlocking bricks are the type of surface treatment of the sidewalk under the outdoor patio, fencing shall be secured using anchors below the top layer of bricks and into the base below, as indicated in Fig. 2 ii). Bricks shall be cut to neatly fit around the post at each anchoring location. The sidewalk shall be reinstated with full bricks at all times when the outdoor patio is removed.

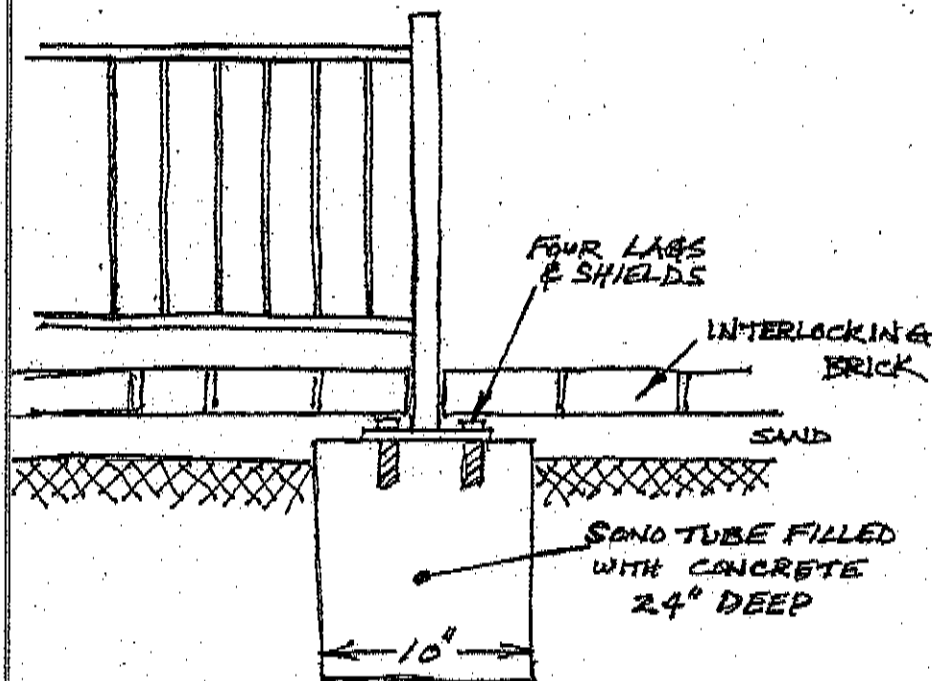


Fig. 2 ii) - Anchoring fencing into areas of interlocking brick.

Fence Heights and Clearances:

All fences shall be a minimum of 90 cm (36 inches) in height for all outdoor patios. A minimum fence height of 1.06 metres (42 inches) shall be provided and maintained for all outdoor patios that are licensed for the consumption of alcohol. The maximum spacing of pickets is 10 cm (4 inches).

Overhead clearance within the outdoor patio area shall be a minimum of 2 metres (7 feet).

Structural supports, signs, planters and umbrellas must not project onto the street, outside of the outdoor patio area, or into the overhead clearance allowance. All items must be removable. Refer to Fig. 3.

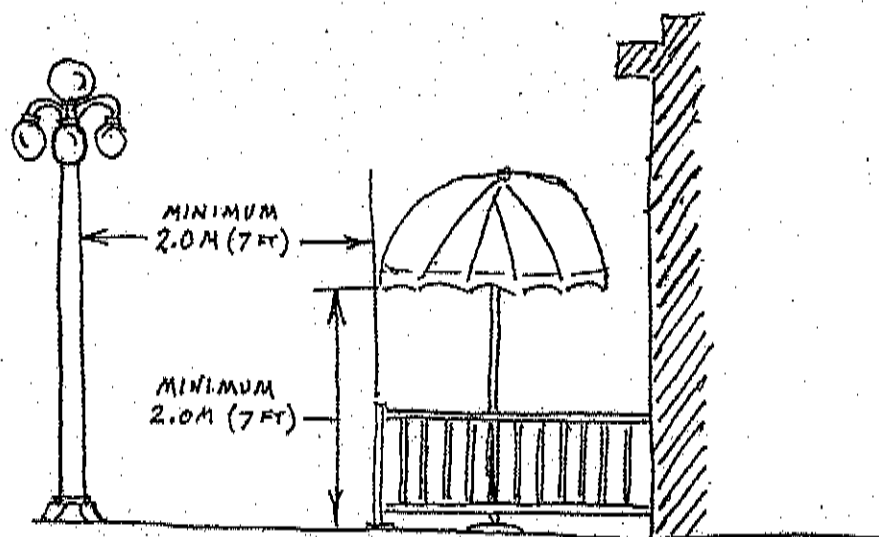


Fig. 3 - Height profiles

Signs, Umbrellas, Furniture:

Sandwich board signs shall not be permitted in any area in which an outdoor patio is erected. Applicants may place a maximum of 2 signs, with a total square footage area of 12 feet, on their fences. No banners or other advertising devices are permitted within the outdoor patio or on the fencing.

Umbrellas shall not contain any lettering or logos.

All plastic furniture must meet the ASTM1561-96 Class B requirements for safe commercial outdoor seating. It shall be of a design that is compatible with the historic nature of the streetscape, as approved by the Heritage District Committee. No glass tables will be permitted. Furniture must not obstruct exits from the eating establishment.

No garbage containers are permitted within the outdoor patio area.

Lighting and Accessibility:

Outdoor patio and building entrances must be clearly lit. Lighting must not spill out beyond the limits of the outdoor patio or interfere with pedestrian or vehicular movement.

A minimum walkway clearance of 110 cm (43 inches) shall be maintained from the outdoor patio entrance to the building entrance, for accessibility purposes. Please refer to Fig. 4.

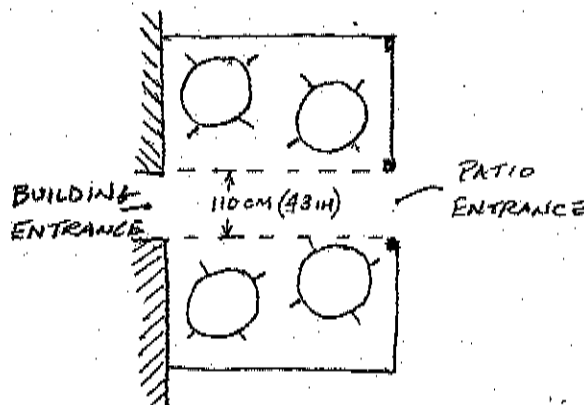


Fig. 4 - Accessibility

Fees:

Applications for an Outdoor Patio Permit are subject to a \$250.00 fee for a maximum period of five years to cover staff, circulation, and advertising costs. If an application does not change from year to year and remains in compliance with the Outdoor Patio By-law, then no renewal fee applies.

Required elements:

Application checklist (Refer to Paragraph 5 in Outdoor Patio By-Law):

- ✓ Scaled site plan
- ✓ A description and illustration of the proposed outdoor patio
- ✓ Its furnishings, fencing and signs
- ✓ A description of the business address
- ✓ Confirmation of ownership or tenancy
- ✓ Information on licensing for alcohol consumption
- ✓ Proof of insurance
- ✓ Payment of the application fee



THE CORPORATION OF THE TOWN OF COBOURG

VICTORIA HALL
55 KING STREET WEST
COBOURG, ONTARIO
K9A 2M2

Telephone: 905-372-4301
Fax: 905-372-1533
Fax: 905-372-7421

File No. _____

APPLICATION FOR OUTDOOR PATIO

BUSINESS NAME: _____

ADDRESS: _____

PHONE: _____ FAX: _____

TYPE OF BUSINESS: _____

I AM THE OWNER ☐ / TENANT ☐ OF THE LANDS IMMEDIATELY ADJOINING THE
PROPOSED PATIO.

IF TENANT, ATTACH WRITTEN CONSENT FROM THE OWNER OF THE LANDS.

WILL THE PROPOSED OUTDOOR PATIO BE LICENSED FOR THE CONSUMPTION OF
ALCOHOL? YES ☐ NO ☐

ATTACH ALL INFORMATION AND DRAWINGS REQUIRED IN SECTION 5.(b).(i).(ii).(iii)
OF THE BY-LAW.

ATTACH CERTIFICATE OF INSURANCE FOR THE PROPOSED PATIO.

APPLICATION FEE: \$ _____ ATTACHED

APPLICANT'S NAME: _____
(please print)

SIGNATURE: _____

*Incomplete applications cannot be processed.

outdoor.pat

SCHEDULE "B" TO BY-LAW NO. 22-2002

SIDEWALK PATIO PERMIT

TO: *Name*
Address

(herein called "the Applicant")

1. The Applicant shall be permitted to use that portion and only that portion of the sidewalk shown on Schedule "A" to this Permit (hereinafter referred to in this Permit and the attached Agreement as the "Patio Area") for the purpose of an outdoor patio and no other purpose.
2. The Municipality acknowledges and agrees that the Applicant has paid to the Municipality the sum of \$250.00 in consideration of the issuance of this Permit.
3. The permission granted to the Applicant in Paragraph 1 above of this Permit shall commence at 12:01 a.m. on the 1st day of April, 200___, and shall expire at 11:59 p.m. on the 15th day of October, 200___.
4. (a) The Applicant acknowledges and agrees that the only objects permitted within the Patio Area shall be those objects listed and described in Schedule "A" to this Permit.
(b) The Applicant covenants and agrees that all objects within the Patio Area shall be located, used and maintained in strict accordance with information, description, illustrations and plans approved by the Municipality and attached as Schedule "A" to this Permit ("the approved plans").
5. The Applicant acknowledges and agree that the Agreement and the Schedules attached to this Permit form an integral part of this Permit.

DATED AT COBOURG this day of , 200

Approved:

Patio By-law Enforcement Officer

SIDEWALK PATIO AGREEMENT

1. In consideration of the issuance of the attached Permit, the Applicant hereby irrevocably covenants and agrees to accept and be bound by the terms, provisions and conditions contained in the attached Permit and the obligations, provisions and requirements of By-law 22-02 (hereinafter called "the By-law").
2. The Applicant hereby warrants that it is the sole owner or a tenant of the lands and premises abutting the Patio Area.
3. The Applicant acknowledges and agrees that the attached Permit shall not be assigned or otherwise transferred without the prior written consent of the Municipality.
4.
 - (a) The Applicant acknowledges and agrees that, notwithstanding the terms of the attached Permit, the provision of safe, reasonable and unobstructed pedestrian movement along the sidewalk and boulevard at all times is of paramount importance.
 - (b) The Applicant acknowledges and agrees that the use of the Patio Area shall be conducted at all times in such a manner so as not to create a nuisance and so as not to interfere with other businesses or residents in the area and so as not to obstruct pedestrians wishing to use the sidewalk and boulevard.
5. The Applicant acknowledges receipt of a copy of the By-law and hereby acknowledges that the Applicant has fully read and understood all of the obligations, requirements and provisions of the By-law, including, without limiting the generality of the foregoing:
 - (i) the provisions of Paragraph 10 of the By-law dealing with compliance with the "approved plans";
 - (ii) the requirement to remove all objects and structures within and forming part of the outdoor patio as set out in Paragraph 9 of the By-law; and
 - (iii) the circumstances in which this Permit may be revoked as set out in Paragraph 11(g) of the By-law.
6. The Applicant covenants and agrees to maintain insurance of the type commonly referred to as "commercial general liability and property damage" with an insurance company duly authorized to underwrite such insurance in the Province of Ontario. The policy of insurance shall provide a minimum coverage of two million dollars (\$2,000,000.00) per occurrence or such greater amount as the Municipality may in its absolute discretion require for bodily injury, death and/or damage to property including the loss thereof. The Municipality shall be shown as an additional insured on the said policy.

The Applicant shall obtain and maintain the aforesaid policy of insurance throughout the term of this Permit.

The policy of insurance shall be endorsed to provide that the policy will not be altered, cancelled or allowed to lapse without thirty (30) days prior written notice to the Municipality. The Applicant shall ensure that all premiums on such policy of insurance has been paid and that the insurance continues in full force and effect. In the event that any premium is not paid, the Municipality may, in its sole discretion, forthwith terminate this Permit without prior written notice to the Applicant.

The Applicant acknowledges that this Permit shall not be approved unless and until a letter from the Applicant's insurance company addressed to the Municipality is delivered to the Patio By-law Enforcement Officer which certifies that the policy of insurance obtained by the Applicant is in full force and effect and in accordance with all of the requirements of this paragraph. The Applicant acknowledges that the Municipality shall rely on the said letter from the insurance company.

The Applicant acknowledges and agrees that the Permit shall be automatically revoked and terminated upon the cancellation, suspension, lapsing or termination of the aforesaid policy of insurance.

The Applicant acknowledges and agrees that the aforesaid insurance shall not be deemed to limit the liability of the Applicant to the Municipality.

7. The Applicant hereby covenants and agrees to indemnify and save harmless the Municipality from and against all actions, causes of action, losses, liens, damages, suits, judgments, orders, awards, claims and demands whatsoever, whether the same shall be with or without merit, and from all costs to which the Municipality may be put in defending or settling any such action, causes of actions, suits, claims or demands, which may arise either directly or indirectly by reason of, or as a consequence of, or in any way related to:

- (i) the existence or use of the Patio Area, including without limitation, the acts, omissions or neglect of the Applicant, his, her or its employees, workmen, contractors, agents, patrons and/or invitees with respect to the installation, removal, maintenance, occupation or use of the Patio Area or any part thereof; or
- (ii) the issuance of the attached Permit.

8. All notices, requests, demands or other communications by the terms hereof required or permitted to be given by one party to another shall be given in writing by personal delivery or by fax or by first class mail, postage prepaid, addressed to such other party or delivered to such other party as follows:

- (a) to the Applicant at:
- (b) to the Municipality at:

The Corporation of the Town of Cobourg
55 King Street West
Cobourg, Ontario
K9A 2M2

Attn: Patio By-law Enforcement Officer

or at such other address as may be given by any of them to the others in writing from time to time and such notices, requests, demands or other communications shall be deemed to have been received when faxed or delivered, or, if mailed, seventy-two (72) hours after 12:01 a.m. on the day following the day of the mailing thereof.

IN WITNESS WHEREOF the Applicant has hereunto set his or her hand and seal and the corporate Applicant has hereunto affixed its corporate seal attested to by the hands of the proper signing officers duly authorized in that regard.

SIGNED, SEALED AND DELIVERED) Applicant

) Per: _____

) Per: _____

APPROVED ON BEHALF OF THE TOWN OF COBOURG BY BY-LAW 22-2002

) **THE CORPORATION OF THE TOWN OF COBOURG**

) Per: _____

) Per: _____