

**THE CORPORATION OF THE
TOWN OF PRESCOTT**

BY-LAW NO. 14-2024

**A BY-LAW TO REGULATE AND ESTABLISH ASSOCIATED FEES FOR THE USE OF
SIDEWALKS AND BOULEVARDS FOR SEASONAL SIDEWALK PATIOS WITHIN THE TOWN
OF PRESCOTT DOWNTOWN CORE ZONE.**

**Being a by-law to regulate and establish associated fees for the use of sidewalks and
boulevards for seasonal sidewalk patios within the Town of Prescott Downtown Core Zone.**

WHEREAS Section 10 of the Municipal Act, S.O. 2001 c. 25, as amended, establishes a sphere of jurisdiction for single-tier municipalities; and

WHEREAS Section 10(2) of the Municipal Act, S.O. 2001 c.25, as amended, authorizes a single-tier municipality to enact a By-law respecting services and things that the municipality considers necessary or desirable for the public; and

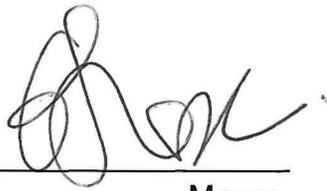
WHEREAS Section 391 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, permits a single-tier municipality to a municipality to impose fees or charges; and

WHEREAS the Council of the Corporation of the Town of Prescott deems it desirable to establish general provisions and an approval process to permit the temporary occupancy of outdoor patios on Municipal Land.

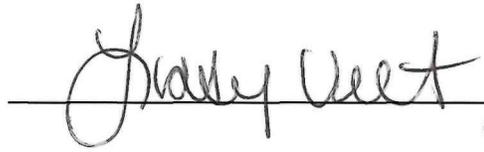
NOW THEREFORE BE IT RESOLVED that Council of the Corporation of the Town of Prescott enacts as follows:

1. THAT Seasonal Outdoor Patios on Municipal Property are permitted within the Downtown Core Zone in the Town of Prescott.
2. THAT the Policies for Seasonal Use of Outdoor Patios attached hereto as Schedule 'A' and forming part of this By-Law to be adopted.
3. THAT the Design Guidelines for Outdoor Patios 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 thereof.

READ AND PASSED, SIGNED AND SEALED THE 15th DAY OF APRIL 2024.



Mayor



Clerk

Outdoor Seasonal Sidewalk Patio By-Law 14-2024

SCHEDULE "A"

Conditions & Operating Guidelines for Sidewalk Patios

SECTION 1 - DEFINITIONS

"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 Town's property or an extension to private property, pursuant to a valid and subsisting temporary use permit as the Town shall deem appropriate.

"Applicant" means a corporation or person who applies for a Licence.

"Chief By-Law Enforcement Officer" shall mean the Chief Building/By-Law Enforcement Officer appointed by the Council of the Corporation of the Town of Prescott as prescribed by the Ontario Building Code Act, R.S.O. 1992.

"CAO/Clerk" means the CAO, Municipal Clerk, or their designate, of the Town of Prescott.

"Council" means the Council of the Corporation of the Town of Prescott.

"Director of Building/by-law Services" means the Director of Building/by-law Services, or their designate, of the Town of Prescott.

"Economic Development & Tourism" means the Economic Development & Tourism Officer or their designate, of the Corporation of the Town of Prescott.

"Extended Walkway" means an accessible pathway created to provide pedestrians with a space to walk in lieu of a Sidewalk that is occupied by a Sidewalk Patio or Merchandise Display.

"Fire Chief" means the Fire Chief, or their designate, of the Town of Prescott.

"Highway" means the same definition as set out in the Highway Traffic Act, R.S.O. 1990, c. H. 8, as amended from time to time or any successor thereof.

"Licence" means a permit issued under the provisions of this By-Law.

"Licensee" means a business or person issued a Licence to operate under the provisions of this By-Law.

"Merchandise Display" means a seasonal display of goods for sale in the sidewalk space frontage abutting the business, including signs, racks, tables, merchandise or other property used to display or contain merchandise that shall not be left on any Town property other than during normal business hours.

"Municipality" means The Corporation of the Town of Prescott.

"Outdoor Patio" means the same as Sidewalk Patio which encompasses Patio-on-Sidewalk and Patio-on-Street designs.

"Patio-on-Sidewalk" means a group of tables and chairs and other accessories situated and maintained on a Sidewalk where meals and/or refreshments are served to the public for consumption on the premises.

"Patio-on-Street" means a group of tables and chairs and other accessories situated and maintained on a municipal road or Highway, including parking and curb lanes, where meals and/or refreshments are served to the public for consumption on the premises.

"Restaurant" - Shall mean an establishment that serves food or beverage to the public and has a current restaurant licence.

"Sidewalk" means any municipal walkway or road works for the accommodation of pedestrians on that portion of a street between the curb line and the street line which is located outside a roadway, primarily intended for the use of pedestrians.

"Sidewalk Patio" means 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 Town's property pursuant to a valid and subsisting temporary use permit as the Town shall deem appropriate: includes both Patio-On-Sidewalk and Patio-On-Street.

"Town" means The Corporation of the Town of Prescott.

"Zoning By-Law" means a By-Law that restricts or regulates the use of land under Section 34 of the Planning Act, R.S.O. 1990.

SECTION 2 – REGULATIONS

1. General

- a) No person shall construct or operate any Sidewalk Patio in the Town unless they hold a current and non-suspended Licence pursuant to this By-Law.
- b) The Licensee shall have at all times on display the Licence granted by the Town and shall present this Licence on demand for inspection by any By-Law Enforcement Officer for the Town.
- c) A Licence shall not be assigned or transferred.
- d) The Licensee shall, at all times, comply with all applicable legislation.

2. Application Requirements

A complete application for a Sidewalk Patio Licence shall include:

- a) Competed Application Form - Applicants shall complete and submit an application to the Town, as provided and amended from time to time under the provisions of this by-law. The application form shall include, but is not limited to the following information:
 - i. Name and contact information of the Applicant;
 - ii. Current restaurant licence;
 - iii. Proof of liquor licence from the Alcohol and Gaming Commission of Ontario ("AGCO") in good standing (if alcohol service is planned);

- iv. Photographs of the proposed area and a site plan of the proposal.
 - b) **(i) Proof of Insurance** The Operator at all times shall maintain:
 - i. Commercial General Liability insurance subject to limits of not less than \$2,000,000 (Two Million Dollars) per occurrence and naming the Corporation of the Town of Prescott as an additional insured. Coverage shall include but not limited to bodily injury, property damage and contain a cross liability clause.
 - ii. Upon the placement, renewal, amendment, or extension of all or any part of the insurance the owner/operator shall provide within (15) Fifteen business days confirmation of insurance to the Town of Prescott.
 - c) A letter, lease agreement and other proof of approval from the property owner to Operate the Sidewalk Patio at the location(s) specified.
 - d) Fees for Licence applications shall be paid in full.
 - e) Declaration confirming the Applicant has completed required adjacent property owner/tenant notifications, has read and agrees to abide by the regulations as described in this by-law.
3. Persons wishing to utilize the extended sidewalk portions the public sidewalk or roadways for the service of food or beverages in the Town of Prescott shall make a formal application to the Economic Development Department. Said application will include pertinent data i.e.: name, address, business, etc.; current restaurant licence; proof of liquor licence from the Alcohol and Gaming Commission of Ontario ("AGCO") in good standing (if applicable) status [a letter photographs of the proposed area and a site plan of the proposal.
 4. The application for use of public property will be circulated to representatives of the following departments to determine if the application meets Town standards: Economic Development & Tourism, Building & By-Law, Fire and Rescue, Operations, CAO & Clerk's Office.
 5. Council approval must also be obtained for all Patio-on-Street applications involving the closure of parking spaces.
 6. The Applicant shall be responsible for notifying, in writing, all immediately adjacent owners and tenants, at the expense of the Applicant, of their intent to install a Sidewalk Patio and/or Extended Walkway in the immediate vicinity of their property/business/residence on public property.
 7. In examining the application, the Director of Building/by-law Services or their 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 and intersections, including alleyways; in terms of general standards of appearance; and in terms of accessibility requirements under the Accessibility for Ontarians with Disabilities Act (AODA), in accordance with Schedule B.
 8. Current standards and engineering requirements for public services shall be maintained; (i.e.: drainage, fire hydrants, utility access, etc.).
 9. Where an application is approved, the applicant shall be required to adhere to the terms and conditions contained herein and attached to the Licence documents provided.

Further requirements are as follows:

- a) The application for a Sidewalk Patio Licence conforms to the design guidelines contained in Schedule "B" of the By-Law.
 - b) There shall be a Sidewalk and/or Parking Space Rental fee (per parking space), assessed monthly, for the temporary use of adjacent parking space(s) necessary for an Extended Walkway. A maximum of two adjacent parking spaces in front of an applicant's business may be accessed for an Extended Walkway.
 - c) The Applicant is responsible for all costs associated with the acquisition, construction, installation, maintenance, removal; repair to road and/or Sidewalk caused by the installation of a Patio or Walkway, with the exception of fencing barriers which are the responsibility of the Town.
 - d) 3rd party approvals must be obtained by the Applicant from applicable authorities such as Health Unit, Fire, TSSA, ESA.
10. Approval of an application shall take the form of a Licence authorized by the Economic Development Department.
 11. 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 Licences issued under this program.
 12. Although the conditions of the Licence are standard, there may be additional requirements imposed based upon the unique circumstances and location of each proposed patio.
 13. Where the proposed use of the Sidewalk is for a licensed patio on private property, the Clerk's Office, in consultation with Building/By-Law Services and Fire Services will provide a letter of no-objection outlining the regulations prescribed by this By-Law and the AGCO. A breach of the AGCO liquor license laws will result in immediate revocation of any Sidewalk Patio Licence. The fee for a no-objection letter, and inspections if necessary, is separate from the Licence fee in this By-Law.
 14. The period of operation for sidewalk patios is established as May 1st to October 15th each year.
 15. Sidewalk Patio Licence applications shall be accompanied by a non-refundable deposit in the amount of twenty five dollars (\$25.00).
 16. 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, waste receptacles 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 Town.
 17. All plans submitted for Sidewalk Patios must adhere to the Design Guidelines for Outdoor Patios contained in Schedule "B".
 18. 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 Town. The applicant is responsible for disposal of all refuse generated from the patio space at their own cost. Public waste receptacles may not be used for the disposal of aforementioned refuse.

19. The Applicant shall be responsible for the restoration of the site to its former condition at the conclusion of the program, at the cost of the applicant. Any holes in the Sidewalk or curb shall be filled with silicone sealer, or equivalent when patio furnishings are removed (if before October 15th) or at the end of the patio season under the provision of this by-law. The Town will bear responsibility for restoring/repairing any holes left from patio fencing installed by the Town.
20. The Applicant shall notify the municipality when the Sidewalk Patio has been installed at the beginning of the season to request an inspection (prior to opening the Sidewalk Patio to patrons). The Applicant must provide at least three municipal business days' notice, prior to opening the Sidewalk Patio to patrons for the municipality to attend for inspection.
21. Sidewalk Patios may be inspected by the municipality at any time throughout the season. The municipality will notify the Applicant of any defects which shall be repaired by the Applicant within 24 hours, unless otherwise noted by the municipality.
22. Sidewalk Patios are permitted to operate between the hours of 9 a.m. and 11 p.m. EST in conjunction with a Noise By-Law 23-2023 exemption.
23. Subletting the Sidewalk Patio Licence to third parties is not permitted.

3. Applicable Fees

1. Application Fee: \$25.00
2. Sidewalk Patio Monthly Rental Fee: \$75.00
3. Parking Space Patio Monthly Rental Fee: \$150.00/parking space (maximum of 2 spaces)

Patios that occupy a combination of Sidewalk and Parking Spaces will be charged both applicable fees.

SECTION 3: REVOCATION OF LICENCE:

1. The Town may revoke, suspend or refuse to renew a Licence where:
 - a) the licensee would not qualify for a Licence or would be disentitled to a renewal of a licence on the grounds set out in this By-law; or
 - b) the licensee has been the subject of repeated, established complaints regarding the operation of the business; or
 - c) the Licensee has been found by a By-law Enforcement Officer or their designate to have failed to comply with any of the provisions of this By-law.

SECTION 4: SEVERABILITY

If any section or sections of this By-law or parts thereof are found by any Court to be illegal or beyond the power of Council to enact, such section or sections or parts thereof shall be deemed

to be severable and all the other sections or parts of this By-law shall be deemed to be separate and independent there from and continue in full force and effect unless and until similarly found and this By-law shall be enacted as such.

SECTION 5: SHORT TITLE

The short title of this By-law is the Seasonal Sidewalk Patio By-Law.

SECTION 6: EFFECTIVE DATE

This By-Law shall come into force and take effect on the date of its passing.

Outdoor Seasonal Sidewalk Patio By-Law XX-2024

SCHEDULE "B"

Design Guidelines for Sidewalk 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 Town of Prescott.

The Council of the Town of Prescott, 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.

Patio designs and furnishings are subject to the approval of the Director of Building/by-law Services and will be circulated to representatives of the following departments to determine if the application meets Town standards: Economic Development & Tourism, By-Law, Fire and Rescue, Operations, CAO & Clerk's Office.

2. GENERAL DESIGN PRINCIPLES:

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

3. DIMENSIONS/SETBACKS:

- a) The clear width of sidewalks and extended walkways must be a minimum of 1.5 metres.
- b) The following permanent infrastructure requires unrestricted access: utility connections, fire hydrants (1.5 to 2 metre minimum) and other infrastructure that requires access.
- c) 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.

4. FENCES:

- a) A fence or other vertical barrier shall be used to delineate the perimeter of the patio area with exception to openings which are necessary to provide access.
- b) The Town of Prescott will be responsible for installing required barrier fencing to delineate the patio and extended walkway.
- c) Fences shall be removable at all times.
- d) Fences shall be made of a material to maintain a consistent appearance throughout the downtown core areas and be compatible with the streetscape.
- e) The fence style and construction will 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.
- f) If a parking space(s) is rented, the Town will place approved reflective object markers on both ends of the platform (walkway or patio) to make parking space encroachment visible to motorists.
- g) Fences will 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.
- h) Openings to enter / exit patios will have a minimum width of 1.2 metres and a maximum width of 2.4 metres.
- i) Fencing will be 1-metre in height minimum.
- j) The Town shall be responsible for removing and storing all barrier fencing off-site outside of the Permit period being May 1 to October 15 annually.

5. AWNINGS/UMBRELLAS:

- a) Patio umbrellas are permitted on Sidewalk Patio establishments, 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. Umbrellas must be closed and properly secured during restaurant closure periods.
- b) Materials should be securely fastened to a frame which is either retractable or demountable.
- c) Sheltering/umbrella material should be prefabricated and finished to fit the supporting structure and is recommended to be fire resistant.
- d) Awnings and umbrellas must be contained within the licensed area of the Sidewalk Patio.
- c) 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.
- d) Material and colours should co-ordinate with the surrounding buildings and streetscape elements. They should generally contribute to the design theme of the street.

- f) 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.

6. PLATFORMS:

- a) 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.
- b) All decking and platforms must be constructed of cut lumber with spaces between each board, boards shall be maximum of 8" wide. Other materials which create a solid surface, such as plywood, will not be accepted as a platform or decking material.
- c) Anti-Slip Tape or Anti-Slip Decking Strips must be installed on the deck/pedestrian by-pass.
- d) Platforms should be supported by posts or ground beams which meet the requirements of the Ontario Building Code.
- e) The platform structure should not obstruct regular site drainage. (A storm water by-pass shall be created on both ends of the Patio or Pedestrian Walkway with a clearance of 51 mm (2 inches) from the concrete gutter.)
- f) Skirting should be applied to the exposed side of the platform to screen structural elements.
- g) 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.
- h) 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 by the Town, 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.
- i) 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, or as provided for in the Ontario Building Code.
- j) 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.
- k) Final design of any platform must be approved by the Director of Building/by-law Services or their designate.

7. FURNISHINGS:

- a) All tables, chairs and decorative accessories in the patio restaurant should be of an appropriate outdoor furniture design; recommended construction using weather & fire-resistant materials.

- b) The premises shall not be used or furniture positioned in such a manner as to obstruct exit from the restaurant.
- c) Chairs and tables shall be kept clear of all existing doorways, Sidewalks and laneways adjacent to the patio in the interests of public safety.
- d) The number of patio chairs and tables must be limited to leave reasonable space for access.
- e) Ensuring patio accessibility requirements are met under the Accessibility for Ontarians with Disabilities Act (AODA) is required at all times.
- f) All patio objects must be removed from the public boulevard outside of the operating period being May 1 to October 15 annually.

8. LIGHTING:

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

9. PLANT MATERIALS:

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

10. SIGNAGE:

- a) Advertising is not permitted on Town property including barrier fencing.
- b) 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.
- c) A-Frame "sandwich board" signs are not permitted on any part of the Extended Walkway or Sidewalk Patio and cannot encumber the walkway or reduce required walkway widths when positioned in the public boulevards.
- d) Signage may be posted indicating that bicycles and other items are not permitted to encumber the walkways at any time.

11. CLOSING TIME:

- a) All Patios must be cleared and closed by 11:00 p.m. EST.
- b) 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.

12. TRANSITIONS, GRADING AND PAVERS:

- a) 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.
- b) The grade of any patio decking must be between 1-4% towards the street to facilitate drainage and provide a sufficiently level surface for pedestrians.
- c) Notwithstanding the general guidelines herein, all grading is subject to the approval of the Director of Building/by-law Services or their designate.

14. REFUSE RECEPTACLES:

- a) Garbage containers are not permitted within the patio area but portable service carts may be used for collection and transportation to the interior restaurant.
- b) Public refuse receptacles must not be used for the disposal of refuse generated by the patio.

15. MAINTENANCE:

- a) The applicant agrees to keep the premises free from dust, refuse, animal waste 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.

16. OUTDOOR PATIO FIRE SAFETY:

- a) Where the design guidelines contained herein are in conflict with the Ontario Fire Code, Ontario Building Code or other relevant codes or legislation, the stricter requirements for fire and life safety will prevail.
- b) Chairs and tables made of combustible materials (wood, plastic, etc.) may not be stored up against the building overnight.
- c) Owners are required to maintain appropriate egress from the patio at all times in case of fire in the building
- d) Barbeques, open flames and other flame producing equipment are not permitted on Sidewalk Patios.
- e) Patio heaters that are safety-certified and meet the requirements of the Technical Standards and Safety Authority (TSSA) are permitted on patios. All heating devices must be available for review during the final patio inspection by approval authorities.
- f) An appropriate fire extinguisher is recommended to be readily visible and accessible in the immediate vicinity of the Sidewalk Patio.
- g) 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.

17. SMOKING/VAPING:

- a) There shall be no smoking or vaping permitted on Sidewalk Patios due to their proximity to open entrances to the adjacent sidewalk, building and to other patrons of the establishment.

18. ENFORCEMENT / INSPECTIONS

The Fire Chief, Chief Fire Prevention Officer, Manager of Building Services, Director of Operations, Economic Development Officer and Bylaw Officers are authorized to inspect sidewalk patio at any time and have authority to enforce the provisions in By-Law No. 44-2024. If a contravention of the conditions of the licence occur, a written Notice to Comply may be issued with a required 72-hour response time.

It is the responsibility of the holder of the licence to maintain the sidewalk patio in a manner that meets the criteria as well as other relevant regulations such as the Alcohol Gaming Commission of Ontario (AGCO), Leeds, Grenville & Lanark District Health Unit and any other applicable regulatory bodies.

Sidewalk Patios will be inspected by the Town to ensure compliance with this By-Law prior to the issuance of a Licence.