City of Kingston

Ontario

By-Law Number 87-136

A By-Law To Authorize The Adoption Of Regulations
Established For The Purpose Of Dealing With
Applications For The Extended Use Of Sidewalks

Passed: May 12, 1987

Updated: October 2, 2018

As Amended By:

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*(Office Consolidation)*
By-Law Number 87-136

A By-Law To Authorize The Adoption Of Regulations Established For The Purpose Of Dealing With Applications For The Extended Use Of Sidewalks

Passed: May 12, 1987

The Council of the Corporation of the City of Kingston enacts as follows:

1. The regulations for dealing with applications for use of extended sidewalks in the Downtown Business Improvement Area, said Leases being approved under Section 308, Subsection (3) and Section 310 of the Municipal Act, 1990 c.M. 45 are hereby approved and adopted as set forth in Schedule "A" to this By-Law and the regulations for dealing with applications for the establishment of Kiosks are hereby approved and adopted as set forth in Schedule "B" to this By-Law.

(By-Law No. 87-136; 2003-11)

2. This By-Law shall come into force and take effect on its passing.

3. The regulations for dealing with leases to seasonal applicants for fixed site locations for vendors are hereby approved and adopted and set forth in Schedule "C" to this By-Law.

(By-Law No. 87-136; 90-315)

4. The design regulations for outdoor patios are hereby approved and adopted and set forth in Schedule "D" to this By-Law.

(By-Law No. 87-136; 92-138)

(a) Notwithstanding the provisions of this By-Law and the design regulations set forth on Schedule "D" thereof, the following exceptions with respect to the patio at Stoney's, 189 Ontario Street shall be permitted:

(i) The side screen may be up to 2.17 metres high above the grade or platform level; and

(ii) The fence facing the street may be a maximum of 0.92 metres in height.

(By-Law No. 87-136; 93-104)
4. (cont’d)

(b) Notwithstanding the provisions of this By-Law and the design regulations set forth in Schedule "D" thereof, the fence facing the street around the patio at the Prince George Hotel, 200 Ontario Street may vary from 0.95 metres to 1.05 metres in height.

(By-Law No. 87-136; 93-104)

(c) Notwithstanding the provisions of this By-Law and the design regulations set forth in Schedule "D" thereof, the clear width of the sidewalk on the taper abutting the patio at Cafe Max, 39 Brock Street, may be 1.62 metres in width.

(By-Law No. 87-136; 93-104)

(d) Repealed by By-Law No. 97-102

(By-Law No. 87-136; 94-262; 97-102)

(e) Notwithstanding the provisions of the By-Law and the design regulations set forth in Schedule "D" thereof, the owners of the establishments known as Brandeess Restaurant and Lounge, The Cocamo, Frankie Pesto’s Italian Eatery, Stoney’s Waterfront Café, Tir Nan Og Irish Pub and Wooden Head's Gourmet Pizza be permitted relief from the following; Schedule “A”, Clause 24; and Schedule “D”, Section 4, Dimensions, Paragraph (d); and Schedule “D”, Section 5, Fences (all inclusive); for the purpose of a temporary extension to each existing patio further into the City’s street right-of-way for a distance of up to 1.5 metres beyond the curb line into Ontario Street and Market Street, as shown in the appended site plan drawings, from 8:00 p.m. Wednesday June 28, 2001 until 8:00 p.m. Monday July 2, 2001 for the event hosted by the City of Kingston known as the Tall Ships Challenge.

(By-Law No. 87-136; 2001-159)

5. The regulations for dealing with Street Musicians, as set forth in Schedule "E" to this By-Law, are hereby approved and adopted.

(By-Law No. 87-136; 93-104)

6. Notwithstanding the provisions of Section 1 c) of Schedule "B" of this By-Law, Send in the Clowns shall be permitted to place a kiosk on the extended sidewalk portion at 120 Princess Street for the 1993 Season.

(By-Law No. 87-136; 93-147)

7. Notwithstanding the provisions of Section 1 c) of Schedule "B" of this By-Law, David Parkinson of Modern Primitive Boutique shall be permitted to place a kiosk on the extended sidewalk portion at 72 Princess Street for the 1993 Season.

(By-Law No. 87-136; 93-147)
8. Notwithstanding the provisions of Section 1.c) of Schedule 'B' of this By-Law, Send in the Clowns shall be permitted to place a kiosk on the extended sidewalk portion at 120 Princess Street for the 1995 Season.

(By-Law No. 87-136; 95-113)

9. Notwithstanding the provisions contained in Schedules “A” and “D” herein, existing restaurant establishments located on Princess Street between Division Street and Ontario Street shall be permitted to establish sidewalks patios on July 31, 2010 only subject to the following conditions:

1) only currently established restaurants located within the Princess Street closure scheduled for July 31, 2010 from 10:00 a.m. to 7:00 p.m., shall be permitted to submit a request to the Engineering Department to set up a sidewalk patio. Said request shall be received in the Engineering Department no later than June 15, 2010;

2) the submission shall include a drawing of the proposed patio layout for review and approval by the Engineering Department;

3) a copy of the approved patio drawing shall be posted in the window of the establishment;

4) written approval from the Kingston, Frontenac, Lennox & Addington Health Unit for the operation of said sidewalk patio shall be provided to the City;

5) proof of a current business license from the Licensing and Enforcement Department of the City of Kingston shall be provided with the patio application; and

6) proof of general liability insurance in the amount of $2,000,000 naming the City as a Party Insured shall be provided to the City on or before July 20, 2010.

(By-law Number 87-136; 2010-115)
1. Persons wishing to utilize the extended sidewalk portions in the City of Kingston shall make formal application to the Director of Engineering or designate, said application to include pertinent data; i.e., name, address, business, etc.; current licence term, type, status (a letter from the L.L.B.O., if applicable); photographs of the proposed area; a site plan of the proposal; and an elevation plan of the proposal.

   (By-Law No. 87-136; 92-138; 2018-162)

2. Deleted

   (By-Law No. 87-136; 92-138; 2018-162)

3. Deleted

   (By-Law No. 87-136; 92-138)

4. The Director of Engineering or designate shall be responsible for notifying all owners and tenants within a sixty (60) meter radius of the business. The Director of Engineering or designate shall also issue a public notice with a request for any concerned parties to address their concerns to the Director of Engineering or designate within fifteen (15) days, such public notice to be done at the expense of the applicant. The Director of Engineering or designate shall prepare a report on the summary of the public comments received.

   (By-Law No. 87-136; 92-138; 2018-162)

5. In examining the application, the Director of Engineering is 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 access for persons with disabilities and seniors.

   (By-Law No. 87-136; 92-138; 2018-162)

6. Current standards of engineering requirements for public services shall be maintained; i.e. drainage, fire hydrants, etc.

   (By-Law No. 87-136; 92-138)

7. Where an application is approved, the applicant shall be required to enter into an agreement with the City. The terms and conditions of the agreement shall be as set out in the document prepared by the City Solicitor; providing, however:

   (By-Law No. 87-136; 92-138)
There shall be a rental charge for the lease of patio space in each Zone described herein, effective for all sidewalk agreements if the area is used for active selling of food or merchandise, as set out in the Fees and Charges By-Law Number 2005-10, as amended, or of a successor to that By-Law.

The Zones shall be described as follows:

Zone A: Ontario Street and east of Ontario Street to the waterfront and west of Ontario Street to any establishment located more than 30 metres east of King Street.

Zone B: Bounded on the east by Zone A; on the west by any establishment within 30 metres west of Montreal Street; on the south by any establishment within 30 metres south of Johnson Street; on the north by any establishment within 30 metres north of Queen Street.

Zone C: Bounded on the east by Zone B; on the west 30 metres west of Division Street; on the south 30 metres south of Brock Street; on the north 30 metres north of Queen Street.

Zone D: all other areas of the City.

In any case where it is necessary to remove a parking meter or meters, the sidewalk patio owner shall continue to compensate the Corporation of the City of Kingston at the rate as set out in the Fees and Charges By-Law 2005-10, as amended, or of a successor to that by-law.”

(By-Law No. 87-136; 92-138; 96-99; 2014-14; 2018-162)

There shall be an annual rental fee as set out in the Fees and Charges By-Law 2005-10, as amended, or of a successor to that by-law, for lease of space if the area is not being used for active selling of food or merchandise. Tables, chairs and decorative accessories on patios not used for active selling of food or merchandise shall be placed a minimum distance of one metre from the curb line and ten centimetres (10 cm) from abutting properties.

(By-Law No. 87-136; 92-138; 96-99; 2014-14)

The 'Certificate of Compliance', as set out in the form attached hereto and marked as Schedule 'F', is hereby approved and adopted and shall be issued to each sidewalk patio operator by a representative of the Engineering Department prior to the opening each year of a sidewalk patio and following his/her inspection and approval that such sidewalk patio conforms with the provisions of this By-Law.

(By-Law No. 87-136; 95-101; 2018-162)
8. Council shall approve the application for use of the sidewalk and enter into an agreement in a form satisfactory to the City Solicitor for the use of the sidewalk as authorized in the Municipal Act, 2001, S.O. 2001, c. 25, as amended, specifically, subsection 11(3)1 (Highways, including parking and traffic on highways).

(By-Law No. 87-136; 92-138; 2003-11; 2018-162)

9. The design regulations together with the procedures established for the purpose of dealing with applications for use of extended sidewalks shall be put together in the form of an information package and given to applicants.

(By-Law No. 87-136; 92-138)

10. Although the lease agreement conditions are standard, the Director of Engineering may recommend other requirements depending on the individual proposals.

(By-Law No. 87-136; 92-138; 2018-162)

11. Deleted

(By-Law No. 87-136; 92-138)

12. Where the proposed use of the leased sidewalk is for a licensed patio cafe, the regulations prescribed by the Liquor Licence Control Board of Ontario shall be adhered to unless otherwise stipulated by Council. The revocation of any sidewalk patio lease agreement shall be enforced after a breach of the Liquor License laws of Ontario.

(By-Law No. 87-136; 92-138; 92-202)


(By-Law No. 87-136; 92-138)

14. a) The period of operation for sidewalk patios shall be established as April 1 to October 31 of each calendar year.

b) The authority of Council is delegated to the Director of Public Works or designate to extend the closing date of a patio season by up to 30 days, subject to weather conditions and City operational requirements.

c) The authority of Council is delegated to the Director of Public Works or designate to temporarily close any patio for the purposes of maintenance or operational needs. The patio operator shall not make a claim against the City for business losses due to the temporary closure.

d) Patio operators may commence construction of their patio on the Monday of the last full week of March, subject to confirmation from the Director of Public Works.

e) All current patio agreements are subject to the amendments contained in this amending By-Law.

(By-Law Number 87-136; 2000-57; 2017-210; 2018-162)
Schedule “A” to City of Kingston By-Law Number 87-136

15. a) New sidewalk patio applications shall be accompanied by an application fee as set out in the Fees and Charges By-Law Number 2005-10, as amended, or of a successor to that By-Law

b) The application fee will be applied to the first year’s lease costs in the event that the applicant proceeds with installation and operation of the new patio within the calendar year in which the new patio was approved.

c) Should an applicant choose not to proceed with construction and operation of the patio in the calendar year in which it is approved, the applicant shall be required to re-apply and shall include payment of the current year’s application fee.

d) Applications for assignment of an existing patio agreement shall be accompanied by an application fee as set out in the Fees and Charges By-Law Number 2005-10, as amended, or of a successor to that By Law.

e) Applications for amendment to an existing patio agreement shall be accompanied by an application fee as set out in the Fees and Charges By-Law Number 2005-10, as amended, or of a successor to that By Law.

(By-Law Number 87-136; 93; 28; 2000-78; 2014-14; 2018-162)

16. The lessee agrees not to encumber the sidewalk surrounding the leased area in any way and specifically not to permit the placement of 'sandwich board' signs, planters or extraneous advertising objects on the sidewalk or allow bicycles to be affixed to or lean against the sidewalk patio fence.

(By-Law No. 87-136; 92-138; 95-101)

Notwithstanding the provisions of this By-Law, sidewalk patio operators shall be permitted to maintain their flower planters as follows:

a) the planters shall be readily removable from the site;

b) the planters shall be integral with the fence or deck structure to maintain a compatible design relationship and shall not infringe upon external pedestrian flow;

c) the planters may be placed on top of, on the inside or outside of the rail fence structure, must be integral to the fenced area and shall not infringe on external pedestrian flow; and

d) hanging plants shall be situated inside of the rail or fence structure.

(By-Law No. 87-136; 95-201; 96-99; 98-110)
17. The lessee agrees to maintain the patio in the manner of the approved plan and shall, in particular, maintain the patio fence and paint such fence, especially the top rail, as well as the top surface of the curb along the widened sidewalk around the patio, except for those patios located where the City has installed granite curb, so as to provide greater visibility, all to be done in a manner satisfactory to the City’s Engineering Department.

(By-Law No. 87-136; 92-138; 96-99 – 1996; 2018-162)

18. All plans submitted for sidewalk patios must adhere to the diagrams included in the Design Regulations for Outdoor Patios.

(By-Law No. 87-136; 92-138 - 1992)

19. The Lessee agrees not to place their posters on public hydro poles in contravention of City of Kingston By-Law Number 2004-190. “A By-Law to Regulate Streets”

(By-Law No. 87-136; 92-202 – 1992; 2018-162)

The Grizzly Grill and all other establishments owned by 956240 Ontario Inc. shall not place or allow to be placed, posters on public hydro poles in contravention of City of Kingston By-Law Number 10.

(By-Law No. 87-136; 95-198 - 1995)

20. During the period of sidewalk patio operations, the Owners of patios in the area of Clarence and Ontario Streets shall collectively hire a person to clean and maintain the area on a daily basis in a manner acceptable to the City.

(By-Law No. 87-136; 92-202 - 1992)

21. During the period of sidewalk patio operations, the Owners of patios in the area of Clarence and Ontario Streets shall collectively pay for any increased costs associated with two By-Law Enforcement Officers being assigned to issue tickets for breach of any of the City’s by-laws in the area of Clarence and Ontario Streets during the evening and late night hours.

(By-Law No. 87-136; 92-202 - 1992)

22. No patio operator shall fail to maintain the sidewalk leased as a patio and it shall be an offence to fail to clean the sidewalk required for the patio.


23. Deleted

(By-Law No. 87-136; 92-202; 2018-162)

24. No person shall deviate from the approved plans for the patio.

(By-Law No. 87-136; 95-101 - 1995)

25. No tables or chairs shall be placed so as to interfere with access by wheelchairs.

(By-Law No. 87-136; 95-101 - 1995)

26. Any person who contravenes any provision of this by-law shall be guilty of an offence and liable to a penalty up to $5,000.00, as provided for in the Provincial Offences Act.
27. Effective May 1, 2003 smoking is prohibited on sidewalk patios that are leased from the City of Kingston.

28. The Lessee of the establishment is required to advise patrons that smoking is prohibited on the patio and the Lessee must ensure that signs appear, on the patio, indicating that the patio is a non smoking area.

29. Failure to comply with paragraphs 27 and 28 may result in the termination of the patio lease for the remainder of the patio season.

30. That upon completion of the reconstruction of any block of Princess Street within the Downtown Action Plan applicants for a patio in an area where an extension to the sidewalk does not already exist or where an extension needs to be altered to accommodate the patio will be required to construct the extension using materials, design and construction specifications to be approved by the Director of Engineering; and,

31. That the City will undertake the construction of the new curb extension and invoice the applicant for the costs including a five thousand ($5,000) dollar administration fee; and,

32. In the event that the application reduces on-street parking, and the accumulated loss of on-street parking resulting from previously approved sidewalk patios within the block and the two adjacent blocks is twenty (20%) percent or greater, then the patio application will not be accepted; and,

33. That the curb extensions be constructed with granite curb and granite pavers as the surface as per the design concepts in the Downtown Action Plan; and,

34. That a serving patio be permitted to utilize up to the width of the concrete sidewalk in front of their property and therefore pedestrian traffic will be accommodated on the curb extensions which may eliminate some street furniture and landscaping prescribed in the Downtown Action Plan; and,
Schedule “A” to City of Kingston By-Law Number 87-136

35. That all serving sidewalk patios and cafes adhere to the design requirements stated in the Downtown Action Plan as modified for current barrier free width recommendations of 1.83m;

- The patios barrier fence be constructed of steel or wrought iron, and be black in colour;

- Outdoor decking should only be used to provide a level area at grade of the sidewalk, not to raise the patio to finished floor level. The fascia of such a levelling platform should be solid wood or metal and painted black;

- No barrier should be closer than 1.83m from any existing lamp, column or other streetscape element. This may require a check in the barrier free fence. The check should extend a minimum of 2.0m along the street axis, each side of the obstacle; and,

  (By-Law No. 87-136; 2012-43)

36. Cane detection horizontal railing is provided at the bottom of the patio fence, and a pronounced color contrast between the railings and the guards and the surrounding environment; and,

  (By-Law No. 87-136; 2012-43)

37. That within the patio a minimum 1.1 meter aisle is maintained up to and around the tables and chairs.

  (By-Law No. 87-136; 2012-43)
REGULATIONS FOR DEALING WITH APPLICATIONS FOR THE ESTABLISHMENT OF KIOSKS

The following regulations for dealing with applications for the establishment of kiosks are hereby established:

1. That the applicant enter into an agreement which shall include the following conditions:
   a) The Kiosk display must be attended.
   b) The display shall occupy eighteen inches (18") immediately adjacent to the store front, or widened sidewalk area, but not both.
   c) The display shall be considered part of a special event or aspect of a promotion, and its nature shall be publicized.
   d) The display shall have maximum dimensions - ten (10) feet long, or not more than 50% of the related business's store frontage, - seven (7) feet, ten (10) inches wide, allowing a minimum fifteen inches (15") from the curb face, - seven (7) feet high maximum, (minimum two (2) feet high).
   e) The display shall not form a visual barrier, for safety reasons and aesthetic reasons.
      (The display, including merchandise, can appear solid to a maximum 4-foot height and should be 50% clear between 4 feet and the 7-foot maximum.)
   f) The display shall be removed at night (portable), yet be reasonably secured during hours of operation.
   g) The display shall not be lighted, to avoid confusion with traffic lights or signs.
   h) The display shall only be allowed adjacent to the existing business and must display the name of the business.
   i) The display shall have a quality of design and finish and be maintained in a way that compliments the Central Business District.
   j) Applications shall be approved for the sole use of the applicant;
   k) Applications shall be classified under Zone E;
      it being understood that any future applications for sidewalk use for the purpose of establishing kiosks shall be considered each on their own merit.
The following regulations for dealing with leases to seasonal applicants for fixed site locations for vendors are hereby established:

1. The following fixed sites are hereby designated for seasonal lease:
   (a) southeast corner of Princess and Wellington Streets (in front of Canada Trust);
   (b) southwest corner of Princess and Wellington Streets;
   (c) northeast corner of Bagot and Princess Streets (in front of the Bank of Nova Scotia);
   (d) south side of Princess Street mid block to the southeast corner of Princess and Wellington Streets;
   (e) northwest corner of Princess and King Streets (in front of Royal Trust);
   (f) south side of Princess Street on the extended portion of the sidewalk in front of the Grand Theatre;
   (g) south side of Princess Street from Barrie Street to mid block (in front of the A & P);
   (h) north side of Brock Street between Bagot and Montreal Streets.

2. The rental charge shall be set out in the Fees and Charges By-Law 2005-10, as amended, or of a successor to that by-law;

3. The period of operation shall be from the second Friday in April to October 31 in each year.

4. The hours of operation shall be from 9:00 a.m. to 11:00 p.m. daily.

5. Permits shall be prominently displayed on any vehicle or equipment used in the business.

6. (i) The initial allocation of all fixed sites shall be recommended to City Council by the City Clerk's Department and shall be based on the following criteria: Central Business District businesses, city businesses; consideration of the nature of competitive businesses within 60 metres of the fixed site; established business record; city residents.
(ii) The term of the agreement shall continue as a licence in the future, subject to the City Solicitor's approval of the leases of the fixed site locations based upon notification from the City Clerk as to satisfactory performance over the previous season and proof of up-to-date payment of city accounts; it being understood that said notification by the City Clerk shall be following consultation with the Public Works Department, the Business Improvement Area Board, the City Treasurer and the By-Law Enforcement Office.

(By-Law No. 90-315 - 1990; 93-104 - 1993)

7. The leases shall not be transferable and shall be renewed annually with operators after a review of their past performance.

(By-Law No. 90-315 - 1990; 93-104 - 1993)

8. The applicant shall have public liability insurance naming the City as a party insured in an amount satisfactory to the City.

(By-Law No. 90-315 - 1990; 93-104 - 1993)

9. The applicant shall enter into a lease agreement in a form satisfactory to the City Solicitor, it being understood that regulations contained in By-Law No. 7 regarding the licensing of vendors in other areas of the City shall also form part of the lease agreement.

(By-Law No. 90-315 - 1990; 93-104 - 1993)

10. Applicants shall comply with all City By-Laws and Regulations in respect of their leases.

(By-Law No. 93-104 - 1993)

11. The sale of food is prohibited at fixed site locations on the downtown streets; it being understood that there is provision for the sale of food from vending carts on Ontario Street and in Confederation Park.

(By-Law No. 93-104 - 1993)

(a) Notwithstanding the provisions of this By-Law, the fixed site location at 226 Princess Street shall be permitted to sell food on Friday, October 22, 1993 from 6:00 p.m. to 10:00 p.m. and on Saturday, October 23, 1993 from 11:00 a.m. to 8:00 p.m.

(By-Law No. 93-338 - 1993)

(b) Notwithstanding the provisions of this By-Law, the Canadian Federation of Chefs and Cooks shall be permitted to sell food from the fixed site location at the Grand Theatre on Friday, October 21, 1994, from 6:00 p.m. to 10:00 p.m., and on Saturday, October 22, 1994 from 11:00 a.m. to 9:00 p.m., in conjunction with Octoberfest celebrations to raise money for the Canadian Federation of Chefs and Cooks Education Fund used to educate their members in the latest trends, presentations and hygienic handling of food.

(By-Law No. 94-312 - 1994)
(c) Notwithstanding the provisions of this By-Law, the Canadian Federation of Chefs and Cooks shall be permitted to sell food from the fixed site location at the Grand Theatre on Friday, October 20, 1995, from 6:00 p.m. to 10:00 p.m., and on Saturday, October 21, 1995 from 11:00 a.m. to 9:00 p.m., in conjunction with Octoberfest celebrations to raise money for the Canadian Federation of Chefs and Cooks Education Fund used to educate their members in the latest trends, presentations and hygienic handling of food.

(By-Law No. 95-272 - 1995)

(d) Notwithstanding the provisions of this By-Law, the Canadian Federation of Chefs and Cooks shall be permitted to sell food from the fixed site location at the grand Theatre on Friday, October 18, 1996, from 6:00 p.m. to 10:00 p.m., and on Saturday, October 19, 1996 from 11:00 a.m. to 9:00 p.m., in conjunction with Octoberfest celebrations to raise money for the Canadian Federation of Chefs and Cooks Education Fund used to educate its members in the latest trends, presentations and hygienic handling of food.

(By-Law No. 96-341 - 1996)
Schedule "D" to By-Law No. 87-136

CORPORATION OF THE CITY OF KINGSTON

DESIGN REGULATIONS FOR OUTDOOR PATIOS

Municipal Operations
Corporation of the City of Kingston

March, 1995
# City of Kingston By-law Number 87-136 “Sidewalks”

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1. **Introduction:**

The information contained in this report is a compilation of the legislation, policies and regulations which pertain to outdoor patios at the time of its publication.

The Council of the Corporation of the City of Kingston, its officers and employees are not bound by the information contained within this booklet. Neither are they liable for any reliance placed upon the contents of this report by any person.


2. **Definitions:**

"**Patio**"  - Shall mean an outdoor patio or sidewalk patio.

"**Outdoor Patio**"  - Means an outdoor area used only on a seasonal basis in conjunction with any restaurant type as defined in the by-law where seating accommodation is provided and which is located wholly on the Corporation's property pursuant to a valid and subsisting encroachment agreement or lease as the Corporation shall deem appropriate.

"**Sidewalk Patio**"  - Means an outdoor area used only on a seasonal basis in conjunction with any restaurant type as defined in the by-law 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 wholly on the Corporation's property pursuant to a valid and subsisting encroachment agreement or lease as the Corporation shall deem appropriate.

3. General Design Principles:

- Maintain primacy of the 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.

- 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.

(By-Law No. 92-138 - 1992)
FIGURE 3
OUTDOOR PATIO RESTAURANT LOCATIONS

STANDARD LOCATION
1. At building face and
   at grade level.
2. Boulevard between
   sidewalk and curb.
3. On Pedestrian Mall
FIGURE 4

TYPICAL LOCATIONS - OUTDOOR PATIOS
4. Dimensions:

(a) Land Use Separation Distance

- Sidewalk patios maintain a 30 metre separation distance to residential zones.

(b) Sidewalk

- The clear width of sidewalks abutting properties should be equal to the sidewalk width in the adjacent areas and may vary from 1.5 metres to 2.5 metres. Clear distance may shift within the right-of-way to avoid obstructions.

- The addition of 0.5 metres to the sidewalk width may be required within 9 metres of an intersection to provide for platooning of pedestrians.

- 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.

(c) Deck and Platform Elevation

- Where the patio is elevated above grade on a structure, the height of the deck surface should be no greater than 2 metres. Terraced decks should be setback at a ratio of 2:1 (horizontal to vertical) with a height of 0.45 metres at the sidewalk (See Diagram 11).

(d) Patio Area

- The surface area of a sidewalk patio may not exceed the interior licensed floor area of the restaurant (L.L.B.O. - licensed premises).

OUTDOOR PATIO AT BUILDING FACE

OUTDOOR PATIO SHALL NOT EXTEND BEYOND FRONTAGE OF RESTAURANT

ALIGNMENT MAY SHIFT WITHIN RIGHT-OF-WAY

CLEAR SIDEWALK WIDTH

1.5 METRE (MIN)
City of Kingston By-law Number 87-136 “Sidewalks”

FIGURE 8

SIDEWALK PATIO LAYOUT DETAILS

CITY OF KINGSTON BY-LAW NO. 87-136

SCHEDULE "D" TO BY-LAW NO. 87-136

1 METRE MIN TO DOORWAY

LIGHTING BUILT INTO FENCE

2.5 METRE WIDE

2AMP 1:12 SLOPE (MAX)

9 METRE LENGTH (MAX)

PLANTERS BUILT INTO FENCE

CLUSTER PUBLIC FACILITY WITH CAFE
5. **Fences:**

- A fence or other vertical barrier should be used to delineate the perimeter of the sidewalk patio area with exception to openings which are necessary to provide access.

- Outdoor patios shall have an access width acceptable to all municipal departments involved in the patio application, inspection and approval process, to meet public safety issues.

  (By-Law No. 98-106 – 1998)

- The required height of a fence facing the street is 1.06 metres (L.L.B.O. - licensed premises). Side screens may be up to 2.0 metres high above the grade or platform level. Such screens may not be entirely opaque, but may be formed by structures with lattice or grill work and climbing vines. Front screens are prohibited.

- Fences and screens should be removable at all times.

- Supporting structural members should not project to obstruct the surface.

- Perimeter fencing must be located at least 1 metre away from a fire hydrant.

- Structures should be stored off-site outside of permit period.

- Fences should be of sturdy construction.

- The design, materials and colours used in the development of the patio restaurant should be compatible with the streetscape.

- The top rail shall be painted white and the remainder of the fence shall be painted in a contrasting colour for the benefit of visually impaired people.


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 patio restaurant.

- If an awning exceeds 3.5 metres in width, an eavestrough system for rainwater runoff and temporary connection to appropriate storm drain must be provided.

- Materials and colours should co-ordinate with the surrounding buildings and streetscape elements. They should generally contribute to the design theme of the street.

  (By-Law No. 92-138 - 1992)
7. Platforms:

- All decking or platforms should be sectional so as to be easily removable for storage off-site.

- Platforms should be supported by posts or ground beams which meet the requirements of the Ontario Building Code.

- The platform structures should not obstruct site drainage.

- Skirting should be applied to the exposed side of the platform to screen structural elements.

- All exposed materials should be painted or stained to co-ordinate with streetscape elements.

- 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.

(By-Law No. 92-138 - 1992)

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.

- The chairs and tables shall be kept clear from 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. Some accessibility for wheelchairs should also be provided.

- All patio objects must be removed from the public boulevard during the off-season and stored in another location, to facilitate snow removal.

(By-Law No. 92-138 - 1992)
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.

(By-Law No. 92-138 - 1992)

10. Plant Materials:

- Permanent planting or removal of vegetation (street trees, etc.) must be approved by the Director of Engineering or the Commissioner of Municipal Operations, Public Works Department.

- Planting of annuals, vines and container grown vegetation is encouraged, but should be readily removable from site.

- Planters should be integral with fence and deck structure to maintain a compatible design relationship and shall not infringe on external pedestrian flow.

- Planters may be placed on top of, or on the inside or outside of the rail fence structure and shall not infringe on external pedestrian flow.

FIGURE 10

PATIO ELEVATION - PLATFORM

UMBRELLA INTEGRAL WITH TABLE

MINIMUM 1.5 METRE CLEARANCE

TAKE LIGHTING INTEGRAL TO STRUCTURE

BUILT IN PLANTER

SKIRTING FINISHES DECK AND TIES TO GROUND

MAINTAIN 1% MINIMUM SLOPE ON PAVEMENT

RAJAP 1:12 (B%) MAXIMUM SLOPE
PATIO ELEVATION - TERRACED DECK

NO. 11
PATIO ELEVATION
TERRACED DECK

* TERRACED DECK PLATFORMS
MINIMUM SETBACK OF 2:1 RISING FROM .45M MAX.
HEIGHT AT SIDEWALK

MINIMUM
1.5 METRE CLEARANCE

MAXIMUM .45 METRE DECK HEIGHT
11. **Signage:**

- Advertising is not permitted on City property.

- A menu card may be displayed at the entrance within the patio.

- A-Frame "sandwich board" signs are NOT permitted on the sidewalk, near the patio restaurant.

(By-Law No. 92-138 - 1992)

12. **Closing Time:**

- Patio restaurants facing onto a residential side street must be cleared and closed by 11:00 p.m.

(By-Law No. 92-138 - 1992)

13. **Grading And Paving:**

- Paving should be durable, skidproof and easily maintained in a clean and unobstructed condition.

- On private property the paving material should be similar to the adjacent public sidewalk but should be distinctive in colour and/or texture to demarcate the property boundary.

- Where applicable, paving material should match decorative sidewalk paving used in the area.

- The minimum slope of pavement should be 1% and the maximum slope 4% within the seating area.

- Any paving proposal must be approved by the Director of Engineering or the Commissioner of Municipal Operations, Public Works Department.


14. **Curbing:**

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

(By-Law No. 92-138 - 1992)

15. **Refuse Receptacle:**

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

(By-Law No. 92-138 - 1992)
16. **Maintenance:**

- The licensee covenants to keep the premises free from dust, papers and rubbish of any kind, and without limiting the foregoing, hereby agrees to wash each day during the period that the premises are used as a sidewalk patio.

(By-Law No. 92-138 - 1992)

17. **Insurance:**

- The licensee shall at all times indemnify and save harmless the City of Kingston from all loss, costs and damages which the City 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 City, 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 licensee shall provide and maintain at his/its sole expense, liability and property damage insurance in the minimum amount of **five million ($5,000,000.00) dollars**, to protect the City as owner of the premises against all liability, and shall complete an insurance certificate, all to the satisfaction of the City Treasurer.

(By-Law No. 92-13; 2018-162)

18. **Subletting:**

- The licensee shall not assign or sublet without the consent in writing of the City Clerk.

(By-Law No. 92-138 - 1992)

19. **Sources:**

City of Ottawa Design Regulations.

City of Burlington.

City of London.

City of Toronto, Boulevard Cafe Regulations.

(By-Law No. 92-138 - 1992)
Regulations For Dealing With Street Musicians

The following regulations for dealing with street musicians are hereby established:

1. Applications to perform as street musicians shall be filed with the City Clerk, and are subject to approval of the City Clerk;

2. The license fee shall be set out in the Fees and Charges By-Law 2005-10, as amended, or of a successor to that by-law;

3. The license shall not be transferable and shall be renewed annually;

4. The license shall be prominently displayed during performances.

5. The applicant shall rotate locations every 90 minutes while performing.

6. No street musician shall perform in the Grand Theatre outside foyer.

7. The applicant shall enter into an agreement in a form satisfactory to the City Solicitor.

(By-Law No. 93-104 – 1993; 2014-14)
CORPORATION OF THE CITY OF KINGSTON

CERTIFICATE OF COMPLIANCE

SIDEWALK PATIO

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<th>Number of Persons:</th>
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This is to certify that the above premises have been inspected by a Representative of the Engineering Division of Kingston Municipal Operations and premises conform to the City By-law regulating sidewalk patios.

Dated at Kingston
This day of 1995
__________________________
Director of Engineering
(Or Designate)