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TOWN OF SIDNEY
BYLAW NO. 1408
(CONSOLIDATED)

Amendment Bylaws incorporated as listed at the end of the document.

**A BYLAW TO AUTHORIZE THE PLACEMENT OF TEMPORARY FIXTURES ON
SIDEWALKS WITHIN THE TOWN OF SIDNEY**

WHEREAS Section 533 (1) of the *Municipal Act* RS, Chapter 323 states the right of possession of every highway in a municipality is vested in the municipality;

AND WHEREAS Section 546 (1)(b) of the *Municipal Act* allows Council to set regulations on the use of public places including highways;

AND WHEREAS the Council of the Town of Sidney deems it advisable to license, set fees and regulate the operation of temporary sidewalk cafes within the Town of Sidney;

NOW THEREFORE the Council of the Town of Sidney in open meeting assembled, enacts as follows:

This Bylaw may be cited as “**Sidewalk Café Regulations and Licensing Bylaw 1408, 1997.**”

Definition:

1. For the purposes of this bylaw “temporary sidewalk café” means objects which
 - (a) are placed, maintained and used on a licensed sidewalk café area;
 - (b) are not affixed to a sidewalk; and
 - (c) may consist of tables, chairs, screens, umbrellas and portable planters.

Licensing:

- 2.1 No person shall carry on a temporary sidewalk café within the Town of Sidney without having first obtained a Town of Sidney License for a Temporary Sidewalk Café and having paid a license fee of fifty (\$50) dollars.
- 2.2 An owner in possession or an occupant of property abutting a sidewalk may establish, operate and maintain a temporary sidewalk café on a designated portion of the sidewalk if that owner or occupant is using the property abutting the sidewalk for a commercial purpose by operating a restaurant, diner, lunch counter, dining lounge or public house, or a combination of any of these and that owner or occupant obtains a temporary sidewalk café license.
- 2.3 Any applicant for a temporary sidewalk café license shall fill out the appropriate application and shall provide to the Town drawings, plans and details of the proposed temporary sidewalk café which show:
 - (a) the area of the sidewalk to be occupied;
 - (b) the location of any objects which shall be placed within the area of the sidewalk to be occupied.

- 2.4 The holder of a sidewalk café license shall indemnify and save harmless the Town of Sidney, its officers and employees from and against all liabilities, action, claim, damage, bodily injuries, or loss whatsoever arising from the use of the sidewalk as authorized by the sidewalk café license arising out of or in any way related to the use of the sidewalk for business.
- 2.5 The applicant for the sidewalk café license must at the time of application for the license provide to the Town copies of certificates of insurance policy and shall contain a cross liability clause and a waiver of subrogation clause in favour of the Town and shall contain a clause requiring the insurer not to cancel or change the insurance without first giving the Town thirty (30) days prior written notice thereof. This certificate of insurance policy shall be in the amount not less than two million (\$2M) dollars.
- 2.6 Any person in charge or control of premises where a sidewalk café operation is carried on shall at all times keep the License prominently displayed in the business area to which the public has access.
- 2.7 The Director of Engineering and Works or designate is hereby authorized to enter, at any reasonable time, upon any premises in order to ascertain whether the provisions of this bylaw are being obeyed.
- 2.8 The license shall be granted for a one (1) year period to commence on the first (1st) day of January and to terminate on the thirty-first (31st) day of December in each and every year. No license fee paid hereunder shall be refundable.
- 2.9 Any holder of a temporary sidewalk café license shall not assign or transfer the permission for the use of the portion of the sidewalk as authorized in the license without the prior written consent of the Director of Engineering and Works.

Suspension:

- 3.1 The Director of Engineering and Works may grant a license where the Director is satisfied that the applicant has complied with the requirements of the bylaws of the Town of Sidney and may suspend for such period which the Director may determine, any license, if the holder of the license:
 - a) has ceased to meet the lawful requirements to carry on the sidewalk café business in accordance with this bylaw;
 - b) is convicted of any offence under any Municipal bylaw or statute of the Province in respect of the business for which the applicant is licensed or with respect to the premises named on this license.
- 3.2 Upon termination for the use of the sidewalk as a temporary sidewalk café, as signified by a resolution of the Council of the Town, the applicant shall, at the applicant's own cost and expense, remove all fixtures, furnishings, and personal property from the sidewalk upon five (5) days notice in writing from the Town's Director of Engineering and Works or designate.
- 3.3 Where any applicant neglects, refuses or fails to give up possession of the sidewalk as required under section 3.2, or fails to do so within the time specified, the Director of Engineering and Works or designate may cause any fixtures, furnishings or personal property located on the sidewalk to be removed and may cause the sidewalk to be restored to a safe and proper condition and may charge the cost to the applicant.

Appeal:

- 4.1 Any person whose license has been suspended under section 3 may appeal to the Council by submitting a written request to appear before Council at the next regular Council meeting, and upon notification of the time and place, the applicant or representative may appear before Council and present the reason for the appeal, and upon such appeal the Council may confirm or set aside such suspension on such terms as it may deem fit.

Regulation of Business:

- 5.1 The designated portion of the sidewalk for which a license is issued shall not be less than
- (a) 1.0 metre from the curb, or
 - (b) 0.6 metres from the curb where the traffic lane adjacent to the curb is used for parking.

- 5.2. An owner in possession or and occupant of property abutting a sidewalk must ensure a three (3) metre unobstructed walkway be maintained adjacent to the associated business property.

(amendment -02)

- 5.2(a) An owner in possession or and occupant of the property adjacent to a sidewalk on a street other than Beacon Avenue, Bevan Avenue and Sidney Avenue must ensure a two (2) metre unobstructed walkway be maintained on the exterior section of the sidewalk. The area used for seating shall be adjacent to the business.

- 5.3 Where a sidewalk café encroaches in front of an adjacent business, approval may be granted when written permission is received from the adjacent business approving the encroachment.

- 5.4 The sidewalk café shall be removed from the sidewalk when the associated business property is closed for business.

- 5.5 The holder of a sidewalk café license must ensure there are no signs
- (a) in the area of the sidewalk café;
 - (b) on fences, rails or other means of separating the sidewalk café from other areas of a sidewalk.

(amendment -01)

- 5.6 The holder of a sidewalk café licence shall be responsible for the disposal of all garbage generated by their business.

Introduced and read a first time the	8 th day of	September, 1997.
Read a second time the	8 th day of	September, 1997.
Read a third time the	8 th day of	September, 1997.
Reconsidered the finally adopted the	22 nd day of	September, 1997.

MAYOR

CORPORATE ADMINISTRATOR

(amendment -01)

Bylaw 1497, 1998

(amendment -02)

Bylaw 1737, 2002