

SCANNED

**CORPORATION OF THE
VILLAGE OF POINT EDWARD
BY-LAW NO. 13 OF 2023**


**Being a By-law to Adopt a Policy to Regulate Sidewalk Cafes
And Street Food Vending Carts on Municipal Road Allowances and Public Spaces
Pursuant to Section 11 of the Municipal Act**

WHEREAS Council deems it desirable to adopt a policy to provide regulations and guidance for the operation of sidewalk cafes and street food vending carts on municipal sidewalks and boulevards and in public spaces;

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE VILLAGE OF POINT EDWARD ENACTS AS FOLLOWS:

1. The attached Appendix "A", "Village of Point Edward Sidewalk Café and Street Food Vending Carts Policy", is hereby adopted and forms part of this By-law.
2. This By-law shall come into force and effect on the date it was passed.

READ a FIRST, SECOND and THIRD TIME and FINALLY PASSED this 28TH day of March, 2023



Deputy Mayor



Clerk

VILLAGE OF POINT EDWARD

Sidewalk Café and Street Food Vending Carts Policy

Background

The Village of Point Edward is located in southwestern Ontario. It is blessed with a relatively temperate climate which is conducive to outdoor dining. Sidewalk cafes allow residents and tourists alike the opportunity to dine outdoors while enjoying the vitality of the street, which adds interest to the community.

The Village supports the establishment of sidewalk cafes and food carts, provided they are attractive, are operated responsibly and safely, and do not have a negative impact on the primary function of the sidewalk. In that regard, the following policies apply to the establishment and operation of sidewalk cafes and food carts.

Definitions

Sidewalk shall mean the portion of the public road allowance which is set aside and intended for use by pedestrians. *Boulevard* shall have a corresponding meaning.

Sidewalk Café shall mean an outdoor seating area located within a public right-of-way pursuant to a valid permit and agreement, which functions as a seasonal extension of the restaurant.

Street Food Vending Cart (short form, Food Cart) as defined in R.R.O. 1990, Regulation 562 under the *Health Protection and Promotion Act*, shall mean a food premise that is a cart set up on a temporary basis in a public space and from which food is sold or offered for sale for immediate consumption. For the purposes of this policy, a Food Cart shall not include a refreshment vehicle or a chip truck.

Food Service Premises shall mean any food premise where meals, meal portions or other food is prepared for immediate consumption or sold or served in a form that will permit immediate consumption on the premises or elsewhere.

Proponent shall mean the owner or operator of a restaurant which is operating a sidewalk café, or the owner or operator of a street food vending cart.

Village shall mean the Corporation of the Village of Point Edward.

Policies

The following policies shall apply to the establishment and ongoing operation of a sidewalk café or a street food vending cart:

permits required

Prior to any occupancy or use of the sidewalk for a sidewalk café or a food cart, an application must be filed with the Village and a permit granted for such use.

term of permit

A permit for a sidewalk café or a food cart shall be valid for one year.

term of sidewalk occupancy

No sidewalk shall be occupied for the purpose of a sidewalk café or a food cart prior to April 1 or after October 30 of each calendar year. A food cart may occupy a sidewalk for the period of time specified in the approval.

agreements

Each proponent granted a permit for a sidewalk café or a food cart shall enter into an agreement with the Village which sets out the terms and conditions of occupancy of the sidewalk.

location/eligibility

Proponents may only use that portion of the sidewalk which is located directly in front of an existing food service premises. For greater clarity, "existing" means operating at the time an application for Village approval of a sidewalk café or a food cart is filed. Exceptions to this rule must be approved by Council.

Cafes and food carts shall only be permitted in association with food service premises which are lawfully existing and properly zoned for that purpose.

portion of sidewalk used

A proponent may only use that portion of the sidewalk which is located between the projections onto the sidewalk of the side lot lines of the property which is occupied by the food service premises or any portion of a sidewalk or public space that Council deems appropriate.

unobstructed passage

A minimum width of 1.52 m (5 feet) of sidewalk must remain open and unobstructed for the passage of pedestrians and others using the sidewalk.

food carts removed

Food carts shall be removed from the sidewalk and stored in another location which is not Village-owned property at the end of each business day.

fencing/enclosure

Sidewalk cafes must be enclosed within a fence or railing of a material and design which is acceptable to the Village. Such enclosure must be sufficiently fastened to the sidewalk to prevent it from falling over or otherwise becoming a hazard to those in the café or to those passing by on the sidewalk.

The architectural design of the enclosure shall be to the satisfaction of the Village.

condition of sidewalk

Prior to issuing a permit for a sidewalk café, the Village shall be satisfied that the sidewalk to be used is safe for such use. Should the Village determine that it is not safe; any improvements shall be made by and at the expense of the proponent, to the satisfaction of the Village.

restoration of sidewalk

Each sidewalk occupied by a sidewalk café shall be inspected by the Village following the occupancy season. If the sidewalk has been damaged as a result of its occupancy by the café, any restoration which is required to return the sidewalk to an acceptable condition will be completed by and at the expense of the proponent, to the satisfaction of the Village.

garbage/litter

The proponent is responsible for the collection and disposal of garbage and litter generated by the sidewalk café or food cart.

outdoor speakers/music

Outdoor speakers and/or music is permitted, but shall be maintained at a volume that does not disturb occupants of nearby properties, in accordance with the provisions of the Village's Noise By-law.

insurance required

Each proponent shall provide the Village with a certificate of insurance in the amount of no less than \$2 million naming the Village as an additional named insured party and in a form acceptable to the Village's solicitor.

save harmless

Each proponent shall agree to indemnify and save harmless the Village from any and all actions, suits, debts, claims and demands of any nature or kind whatsoever which may arise out of the use of the Village's sidewalk or public space.

signs

The placement of signs on the sidewalk may be permitted at the discretion of the Village, and such terms and conditions relating to the signs as may be appropriate will be included in the required agreement between the proponent and the Village.

tssa compliance

Proponents operating food carts shall provide documentation to the Village indicating that the equipment to be used meets all relevant requirements of the Technical Standards and Safety Authority under the Technical Standards and Safety Act and its regulations.

review and evaluation

Applications for approval of sidewalk cafes and food carts will be considered by Village Council based on a recommendation from staff. In the course of preparing such recommendation, each application may be circulated to appropriate departments and agencies, including, but not necessarily limited to, the following:

- Point Edward Fire Department
- Ontario Provincial Police
- Public Works
- Planning
- Building/Plumbing Inspection
- Legal
- County Community Health Services

The recommendation of staff will be based on the following, among other considerations:

- Features and design that will improve the attractiveness, character and ambience of the downtown core and the Village as a whole;
- Accommodation of all safety requirements;
- Accessibility for persons with disabilities; and

- Willingness of the proponent to enter into agreements with the Village and to provide all required documentation, including insurance, indemnification of the Village etc.

fees

Proponents operating sidewalk cafes or food carts will be required to submit a permit application fee as well as a fee for the annual use of the sidewalk. Both fees will be set by Council and may be amended from time to time.

number of permitted cafes and carts

Council reserves the right to limit the number of sidewalk cafés or street food vending carts.