



Exhibit A

**Town of Kentville Bylaw 207
STREET ENCROACHMENT**

BE IT ENACTED by the Council of Town of Kentville under the authority of the *Municipal Government Act*, Statutes of Nova Scotia, 1998, Chapter 18, and amendments thereto as follows:

1. SHORT TITLE

This Bylaw shall be known as Bylaw 207 and may be cited as the “Street Encroachment Bylaw”.

2. PURPOSE

Whereas:

(a) Pursuant to Section 308(2) of the *Municipal Government Act*, all streets are vested absolutely in the Town and the Town has full control over such streets insofar as is consistent with their use by the public;

(b) Section 314(2) of the *Municipal Government Act* provides that a Council may, by by-law, regulate encroachments upon, under, or over streets, including stipulating the period of time an encroachment may remain and the entering into of agreements for such encroachments; and

(c) The Town enacts this By-law to authorize the municipality to regulate encroachments and to enter into Licence Agreements with abutting property owners in relation to encroachments upon streets.

3. DEFINITIONS

In this By-law:

(a) “*abutter*” means the owner of any premises or lot in the Town of Kentville which abuts a Town street, and includes, where applicable, a condominium corporation managing such premises;

(b) “*barrier-free path of travel*” means a continuous unobstructed route intended to provide accessible movement for pedestrians, including persons using mobility aids, and shall be interpreted in accordance with applicable accessibility legislation and standards;

- (c) “*building*” means a roofed structure, whether permanent or temporary, used or capable of being used for the shelter or accommodation of persons, animals, materials, or equipment, and includes all additions, porches, verandahs, decks, and attached features;
- (d) “*Council*” means the Council of the Town of Kentville;
- (e) “*Development Officer*” means the person appointed to administer the Land Use By-law and includes a person acting under the supervision of the Development Officer;
- (f) “*Engineer*” means the Town Engineer or designate;
- (g) “*Encroachment*” means any structure, projection, or use located upon, over, or under a public street;
- (h) “*Encroachment Licence*” means a licence issued by the Town pursuant to this By-law authorizing the placement, construction, maintenance, use, or continuation of an Encroachment within a Municipal Right-of-Way or on Municipal Property, subject to the terms and conditions of the licence and this By-law, and does not convey any ownership interest or property rights in the Municipal Right-of-Way or Municipal Property;
- (i) “*Licence*” means an Encroachment Licence issued pursuant to this By-law;
- (j) “*Licencee*” means a person, corporation, partnership, association, or other legal entity to whom an Encroachment Licence has been issued under this By-law, and includes any successor or assignee of the Encroachment Licence where permitted by this By-law;
- (k) “*Sidewalk Café*” means an outdoor seating area consisting of tables, chairs, and related accessories, situated on a public sidewalk or pedestrian area, for the consumption of food and beverages associated with an adjoining establishment;
- (l) “*street*” means a public street, highway, road, sidewalk, or right-of-way under the ownership or control of the Town, and includes the full width thereof;
- (m) “*structure*” includes anything erected, constructed, or affixed to the ground or to another structure, including stairs, ramps, landings, awnings, lighting, signs, flags, cornices, and similar features;
- (n) “*Town*” means the Town of Kentville.

4. GENERAL PROVISIONS

4.1 Licence Required

Except as otherwise provided in this By-law, no person shall construct, place, enlarge, reconstruct, maintain, or permit an Encroachment upon, under, or over a street unless an Encroachment Licence has been issued by the Town in accordance with this By-law.

4.2 Permitted Applications

Abutters may apply for an Encroachment Licence to permit the construction or maintenance of structures within the street right-of-way for the purpose of providing access to a building, improving accessibility, or legitimizing an existing encroachment, provided that all requirements of this By-law are satisfied.

4.3 Public Safety and Operations

The Town reserves the right to refuse, revoke, or require the removal of any encroachment that, in the opinion of the Engineer, interferes with pedestrian or vehicular movement, municipal operations, or public safety, including but not limited to snow clearing and servicing activities.

4.4 Restrictions

No Encroachment Licence shall be issued for any encroachment that provides access to a floor other than the floor closest to street level, or that provides access for motor vehicles, except for assistive mobility devices. No encroachment shall extend onto the frontage or flankage of an adjacent property.

4.5 Pedestrian Clearance

No Encroachment Licence shall be issued where the encroachment would result in less than the minimum unobstructed pedestrian travel width required by applicable accessibility legislation and standards, unless otherwise permitted by such legislation.

4.6 Landscaping

Landscaping shall be temporary in nature and shall be contained within the approved encroachment area, unless otherwise approved by the Development Officer.

4.7 Permits and Approvals

The Licencee shall obtain all required permits, including building permits and sign permits, where applicable, and shall comply with all relevant by-laws and regulations.

4.8 Accessibility Compliance

All encroachments authorized under this By-law shall comply with the Nova Scotia Accessibility Act, the Built Environment Accessibility Standard, and any successor legislation or standards respecting accessibility in the built environment.

4.9 Term

Encroachment Licences shall not exceed a period of ten (10) years. Notwithstanding the term of a Licence, the Licencee shall maintain compliance with all applicable legislation, regulations, and standards throughout the duration of the Licence.

4.10 Legislative Changes

Where changes to legislation, regulations, standards, municipal infrastructure requirements, or public safety requirements occur during the term of a Licence, the Town may require modifications to an approved encroachment where necessary to maintain compliance with such requirements.

4.11 Indemnity

No Encroachment Licence shall be issued unless the applicant provides an agreement of indemnity in favour of the Town, in a form satisfactory to the Town, for the defence and indemnification of any claims arising from the encroachment.

4.12 Insurance

As a condition of an Encroachment Licence, the Licencee shall obtain and maintain throughout the term of the Licence commercial general liability insurance in an amount not less than \$2,000,000 per occurrence for bodily injury, death, and property damage arising from the operation of the encroachment.

The policy shall name the Town as an additional insured and shall contain a cross-liability clause and a provision requiring not less than thirty (30) days' written notice to the Town prior to cancellation, non-renewal, or material change in coverage.

Proof of insurance satisfactory to the Development Officer shall be provided prior to the issuance of an Encroachment Licence.

5. SIDEWALK CAFÉS

5.1 Permitted Use

An Encroachment Licence may be issued for the establishment of a sidewalk café as an accessory use to an existing food and beverage establishment, provided that such café is located adjacent to the principal use and complies with the requirements of this By-law and any applicable Council policies.

5.2 Hours of Operation

A sidewalk café shall not operate beyond the hours of operation of the principal establishment to which it is accessory, and in no case shall it operate later than 2:00 a.m. on any given day.

5.3 Pedestrian Movement and Temporary Walkways

Where a sidewalk café interferes with the free flow of pedestrian traffic, the Development Officer, in consultation with the Engineer, may require the provision of a temporary pedestrian walkway adjacent to the café, designed in accordance with specifications approved by the Town and with consideration for accessibility and public safety.

5.4 Encroachment Limits

No sidewalk café shall extend onto the frontage or flankage of an adjacent property without the written consent of the affected property owner.

5.5 Fencing and Enclosure

Where fencing is provided for a sidewalk café:

- a) fencing shall not exceed one (1) metre in height;
- b) open-style fencing shall be preferred to maintain visibility;
- c) fencing located within six (6) metres of an intersection shall not obstruct sightlines or vehicular visibility, as determined by the Town.

5.6 Umbrellas and Accessories

All umbrellas, furnishings, and associated features of a sidewalk café shall be located entirely within the approved encroachment area and shall not project beyond its boundaries.

5.7 Maintenance and Waste Management

The Licencee shall maintain the sidewalk café area and adjacent public space in a clean and orderly condition at all times and shall ensure that all waste generated by the operation is removed from the street right-of-way.

5.8 Lighting

Lighting associated with a sidewalk café shall:

- a) be temporary in nature;
- b) not project onto adjacent properties; and
- c) not interfere with traffic control devices or visibility.

5.9 Furnishings

All furniture and accessories associated with a sidewalk café shall be constructed of durable, weather-resistant materials and maintained in good condition.

5.10 Seasonal Removal

All sidewalk café elements, including furnishings, fencing, and structures, shall be removable and shall be removed during the off-season or upon cessation of operation, and the site shall be restored to its original condition to the satisfaction of the Engineer.

5.11 Nuisance

The operation of a sidewalk café shall not create a nuisance for adjacent properties, and the Town may revoke a Licence where such nuisance is determined to exist.

5.12 Municipal and Utility Access

The Town and utility providers have the right to access the encroachment area of a sidewalk café at any time for installation, maintenance, or emergency purposes, and the Licencee shall remove or relocate elements of the café at their own expense when required.

5.13 Season

Sidewalk cafés shall operate only between May 15 and October 15, unless otherwise approved by Council.

6. APPLICATION

6.1 Application Requirements

An application for an Encroachment Licence shall be made in writing on a form prescribed by the Town and shall include the required application fee, a site plan or survey showing the location and dimensions of the proposed encroachment, and any additional information deemed necessary by the Development Officer or Engineer.

7. ADMINISTRATION

7.1 Administration

This By-law shall be administered by the Development Officer.

7.2 Approval

No Encroachment Licence shall be issued without the written approval of the Engineer.

7.3 Licence Content

Every Encroachment Licence shall specify the location, dimensions, duration, and conditions of the encroachment, including maintenance obligations.

7.4 Renewal

A Licence may be renewed at the discretion of the Town, subject to compliance with this By-law and submission of a new application.

7.5 Comfort Letters

The Engineer may issue a Comfort Letter indicating that the Town has no present intention to require removal of an encroachment, while retaining the right to require removal at any time.

8. CHANGE IN OWNERSHIP

8.1 Assignment of Licence

An Encroachment Licence issued pursuant to this By-law may be assigned by the Licencee to a subsequent purchaser or owner of the property to which the Licence relates.

8.2 Notice of Change in Ownership

Where ownership of a property subject to an Encroachment Licence changes, the Encroachment Licence shall be deemed assigned to the new

owner, provided that the encroachment remains unchanged and continues to comply with the terms and conditions of the Licence.

The new owner shall, within one hundred and twenty (120) days of the transfer of ownership, notify the Development Officer in writing of the change in ownership and provide their name and mailing address.

Where the encroachment has been altered, expanded, reconstructed, or no longer complies with the terms and conditions of the Encroachment Licence, the Development Officer may require the submission of a new application.

8.3 Continuation of Obligations

When a Licence is assigned, the encroachment shall remain subject to all terms, conditions, and obligations of the Licence, and the new owner shall be deemed to have assumed all such obligations.

9. REVOCATION OR REFUSAL

9.1 Revocation by Development Officer

The Development Officer may revoke an Encroachment Licence or refuse to issue a Licence where the applicant or Licencee fails to comply with this By-law, the conditions of a Licence, or any direction lawfully issued under this By-law.

9.2 Notice of Revocation or Refusal

Notice of revocation or refusal shall be provided in writing to the applicant or Licencee and may be delivered by personal delivery, by mailing to the last known mailing address, or by electronic mail to the last known email address provided to the Town.

Notice shall be deemed to have been received:

- a) on the date of delivery, where delivered personally;
- b) five (5) business days after mailing, where sent by regular mail; and
- c) on the date of transmission, where sent by electronic mail, provided that no automated notice of delivery failure is received by the Town.

9.3 Revocation by Council

Notwithstanding Section 9.1, Council may, by resolution, revoke an Encroachment Licence at any time during its term by providing one hundred and twenty (120) days' written notice to the Licencee, where Council determines, in its sole discretion, that the lands subject to the Licence are required for municipal purposes.

9.4 No Compensation

No compensation shall be payable by the Town in respect of any revocation, refusal, or termination of an Encroachment Licence.

10. REMOVAL OF ENCROACHMENTS

10.1 Requirement for Removal

Any encroachment located upon, under, or over a street for which an Encroachment Licence has not been issued, or where such Licence has expired or been revoked, shall be removed by the owner upon written notice from the Town within such time as may be specified in the notice.

10.2 Authority to Remove

Where an owner fails to remove an encroachment in accordance with Section 10.1, the Town may enter upon the lands and remove the encroachment or cause it to be removed.

10.3 Recovery of Costs

The cost incurred by the Town in removing an encroachment may be recovered from the owner as a debt owing to the Town and may be collected in any manner permitted under the Municipal Government Act, including as a lien against the property.

10.4 No Limitation on Authority

Nothing in this By-law shall limit the authority of the Town to exercise any remedies available under the Municipal Government Act or otherwise at law.

10.5 No Compensation

The Town shall not be liable for compensation in respect of the removal of any encroachment or any damage arising therefrom.

11. APPEAL

11.1 Right of Appeal

Any applicant for an Encroachment Licence aggrieved by a decision of the Development Officer made pursuant to this By-law may appeal such decision to Council within fourteen (14) days of the date the written notice of the decision is deemed to have been received in accordance with Section 9.2 of this By-law.

11.2 Notice of Appeal

An appeal shall be made by submitting written notice to the Chief Administrative Officer, setting out the grounds of appeal.

11.3 Powers of Council

Upon hearing an appeal, Council may confirm, rescind, or vary the decision of the Development Officer and may impose such conditions as it deems appropriate.

11.4 Final Decision

The decision of Council on an appeal shall be final.

12. OFFENCE

12.1 Offence

A person commits an offence who:

- a) constructs or maintains an Encroachment contrary to Section 4.1;
- b) fails to comply with a notice requiring removal issued under Section 10.1; or
- c) obstructs or interferes with the Town, the Development Officer, the Engineer, or a person acting under their authority in exercising powers under this By-law.

12.2 Penalties

A person convicted of an offence under this By-law is liable to the penalties set out in Section 505 of the Municipal Government Act, as amended from time to time.

13. REPEAL

Town of Kentville Policy G29 respecting Sidewalk Cafes, approved by Council on the 17th day of January, 2017, including any amendments thereto, is hereby repealed.

CLERK'S ANNOTATION FOR OFFICIAL BYLAW BOOK

Date of first reading:	June 22, 2026
Date of advertisement of Notice of Intent to Consider:	June 26, 2026
Date of second reading:	July 27, 2026
Date of advertisement of Passage of Bylaw:	August 29, 2026
Date of mailing a certified copy to Minister:	September 1, 2026
Effective Date:	August 29, 2026

I certify that this Street Encroachment Bylaw was adopted by Council of the Town of Kentville on the 27th day of July 2026 and published as indicated above.

SIGNED by the Mayor and Clerk this 1st day of September 2026.

Original signed by Andrew Zebian

Mayor

Original signed by Chris McNeill

Clerk

SCHEDULE "A":

ENCROACHMENT LICENCE AGREEMENT**

THIS AGREEMENT made this ____ day of _____, **2026**.

BETWEEN:

TOWN OF KENTVILLE, a municipal body corporate
(hereinafter called the "Town")

OF THE FIRST PART

- and -

(hereinafter called the "Licencee")

OF THE SECOND PART

WHEREAS:

- (a) The Town is the owner of a public street within the Town of Kentville;
 - (b) The Licencee is the owner of lands abutting such street;
 - (c) The Licencee has requested permission to construct and/or maintain an encroachment within the street right-of-way;
-

NOW THEREFORE:

1. The Town hereby grants to the Licencee permission to construct and/or maintain the encroachment as described in the attached plan.
 2. This Licence shall not exceed a term of ten (10) years.
 3. The Licencee acknowledges that this Licence does not create any ownership or property interest in the lands of the Town.
 4. The Licencee shall maintain the encroachment in a safe and clean condition at all times.
 5. The Licencee shall comply with all applicable by-laws, statutes, and regulations.
 6. The Licencee assumes all risks associated with the encroachment and agrees that the Town shall not be liable for any damages, including those arising from municipal operations.
-

Town of Kentville, Bylaw 207: Street Encroachment

7. The Town may revoke this Licence in accordance with the By-law.

SIGNED

TOWN OF KENTVILLE

Per: _____

Development Officer

LICENCEE

****SCHEDULE B**

INDEMNITY AGREEMENT**

THIS AGREEMENT made this ____ day of _____, **2026**.

BETWEEN:

(hereinafter called the "Owner")

- and -

TOWN OF KENTVILLE

AGREEMENT:

The Owner hereby agrees to indemnify and save harmless the Town, its officers, employees, and agents from and against all claims, actions, losses, damages, and costs, including legal costs, arising from or in any way related to the encroachment.

The Owner acknowledges that the Town may require removal of the encroachment at any time and that no compensation shall be payable.

****SCHEDULE C**

COMFORT LETTER**

Dear _____:

Re: Encroachment on Town Property at _____, Kentville

The Town acknowledges the presence of an encroachment as identified in the attached plans. The Town has no present intention to require removal of the encroachment; however, the Town reserves the right to require removal at any time without notice or compensation.

This letter does not confer any ownership or legal right and does not exempt the property owner from compliance with applicable by-laws.

Per: _____

Town Engineer