

SOUTH FRONTENAC TOWNSHIP

BY-LAW 2017-35

BEING A BY-LAW TO AUTHORIZE THE ENCROACHMENT OF A PATIO ON THE ROAD ALLOWANCE THAT IS BATTERSEA ROAD ABUTTING 5208 BATTERSEA ROAD, DISTRICT OF STORRINGTON.

WHEREAS Section 11(2) of the Municipal Act 2003, c. 25 authorizes a municipality to pass by-laws respecting highways; and,

AND WHEREAS such jurisdiction allows any person owning or occupying a structure that is wholly or partially erected or constructed on any highway to maintain and use such structure thereon and to fix such annual charges that the Council considered reasonable for such an owner or occupant to pay for such a privilege;

AND WHEREAS the patio located on lands with the civic address of 5208 Battersea Road, District of Storrington, is located wholly or in part on the road allowance of Battersea Road;

NOW THEREFORE THE CORPORATION OF THE TOWNSHIP OF SOUTH FRONTENAC, BY ITS COUNCIL, HEREBY ENACTS AS FOLLOWS:

1. The patio feature which is proposed on 5208 Battersea Road may encroach into the road allowance of Battersea Road, but in no case shall it encroach further into the road allowance than the retaining wall existing at the date of the passage of this By-law;
2. An annual fee for this privilege is \$1.00;
3. A permit agreement shall be entered into between the property owner and the Township and attached to this By-law as Schedule "A";
4. If any structure which encroaches into the road allowance as of the date of this By-law taking effect are removed, they cannot be replaced within the road allowance, and no additional structures shall occur within the road allowance; and,
5. This by-law shall come into force and take effect on the date of its passage.

Dated at Sydenham this 20th day of June, 2017

Read a first and second time this 20th day of June, 2017.

Read a third time and finally passed this 20th day of June, 2017.

**The Corporation of the
Township of South Frontenac**



Mayor Ron Vandewal



**Wayne Orr
Chief Administrative Officer**

SCHEDULE "A"
TOWNSHIP OF SOUTH FRONTENAC
BOX 100, 4432 GEORGE ST
SYDENHAM, ON K0H 2T0
PERMIT FOR ENCROACHMENT

Date: June 20, 2017
Licensee: Jeff Day & Core Lee
Licensor: Township of South Frontenac
Location: 5208 Battersea Road, District of Storrington

The Licensee hereby agrees to the following conditions for the encroachment permit for a patio to occupy part of the Battersea Road (Main Street on Survey) road allowance, as shown on the attached Schedule "B" as Subject Lands, and agrees to comply with the conditions of By-law No 2017-35, being a By-law to authorize the encroachment of a patio on the road allowance that is Battersea road abutting 5208 Battersea road, District of Storrington.

We hereby covenant and agree for ourselves, heirs, executors and assigns:

1. To indemnify and keep indemnified the Licensor against all actions, suits, claims and demands which may be brought or made against the Licensor, and against all loss, costs, damages, charges or expenses whatever which may be sustained, incurred or paid by the Licensor in consequences of the above-mentioned encroachment, and the Licensee hereby grants to the Licensor full power and authority to settle any such action, suit, claim or demand on such terms as the Licensor deems appropriate;
2. To pay to the Licensor on demand all moneys paid by it in pursuance of any such settlement and also such sums as shall represent the reasonable costs of the Licensor or its Solicitor in defending or settling any such action, suit, claim or demand, and this agreement shall not be alleged as a defense by the Licensee in any action by any person for actual damage suffered by reason of the permission hereby granted to maintain the above-mentioned encroachment;
3. That if in the opinion of the Licensor, there is a need for development or use of the road allowance by the Licensor, and if the existing encroachment is deemed to interfere with such development or use, the owner shall remove the encroaching patio from the road allowance, subject to a 120 day notice period; and,
4. That if any structures which encroaches into the road allowance as of the date of this By-law taking effect are removed, they cannot be replaced within the road allowance, and no additional structures shall occur within the road allowance.
5. That this agreement is non-transferable and is only assigned to the owners of the property at the date of the execution of the agreement.




Owner



Owner



Ron Vandewal, Mayor



Wayne Orr, CAO



Witness