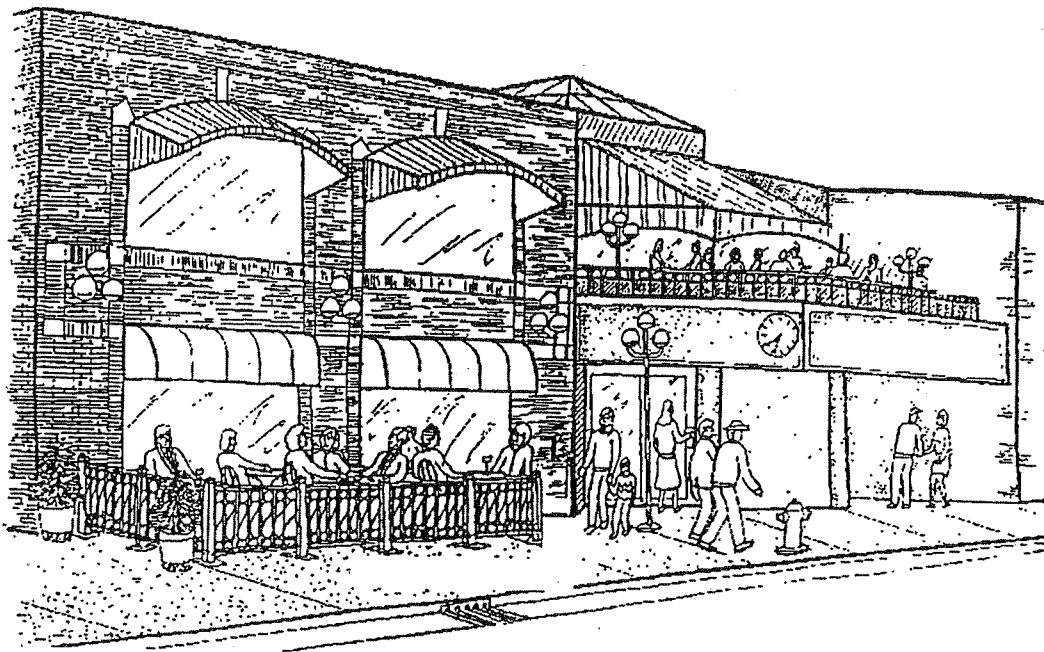


# *SIDEWALK CAFE*

## *DESIGN GUIDELINES*



Corporation of the City of New Westminster  
January, 1997

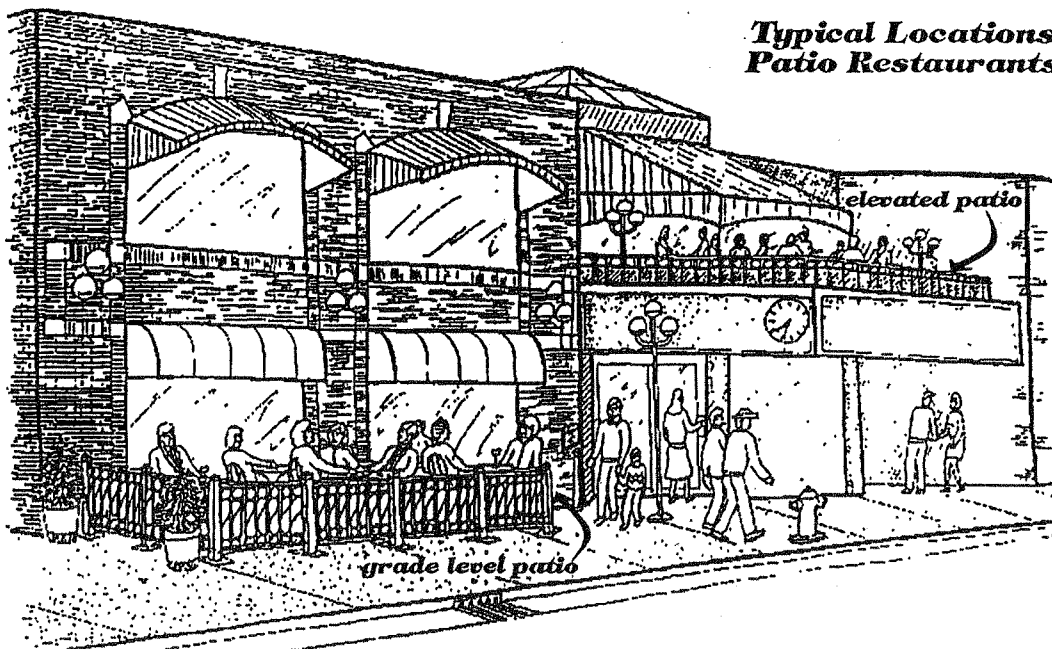
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## GENERAL DESIGN PRINCIPLES

*Remember the following considerations when planning your outdoor seating area:*

- ⇒ *Sidewalk seating cannot obstruct pedestrian traffic.*
- ⇒ *The patio design and construction are highly visible and affect the image of your business and the city. Patios must be high quality and be complementary to the streetscape and nearby buildings.*
- ⇒ *Sidewalk cafe seating must be accessible to those in wheelchairs.*
- ⇒ *Sidewalk cafe seating cannot interfere with:*
  - ⇒ *access to public utilities and service connections*
  - ⇒ *access for emergency, service and delivery vehicles*
- ⇒ *Address possible negative impacts on your neighbourhood.*
- ⇒ *Remember that sidewalk cafes can enhance the vitality of the street environment.*



## **INTRODUCTION**

Businesses and residents have told us that sidewalk cafes would add to the character and vitality of the commercial areas in our city. We also noticed how outdoor seating successfully enhanced places like Marine Drive in White Rock and Robson Street in Vancouver.

This booklet is designed to help you provide outdoor seating for your restaurant by:

- giving you design ideas; and
- explaining how to get sidewalk seating approved.

These design guidelines include requirements as well as suggestions for your sidewalk cafe. The City of New Westminster will be pleased to assist you in the planning of your sidewalk cafe and obtaining the necessary permits.

## THE APPROVAL PROCESS

All sidewalk cafes require a Sidewalk Cafe Permit.

1. Visit the Planning Department for design ideas for your sidewalk cafe.
2. Once you have a design idea in mind, visit the Engineering Department for assistance in applying for your permit. You will receive a copy of the Sidewalk Cafe Bylaw and a copy of the Sidewalk Cafe Design Guidelines (*this booklet*).
3. Finalize your application and submit your application and the required drawings to the Engineering Department.

The application will include:

- ⇒ a letter requesting a sidewalk cafe
  - ⇒ 4 copies of the proposed sidewalk cafe site plan:
    - ⇒ the site plan showing 15 feet on either side of the lot frontage, including street lights, street furniture, poles and trees.
    - ⇒ If the proposed sidewalk cafe design includes a deck, floor or other kind of platform, 4 copies of structural drawings must also be included. The structure(s) must meet the requirements of the British Columbia Building Code
4. When all requirements are met, the Engineering Department will issue your Sidewalk Cafe Permit. At this time, you will pay your permit fee and security deposit and provide a certified copy of insurance.
  5. When construction of your sidewalk cafe is finished there will be a final inspection of it by City Staff.

## **FEES, DEPOSIT AND INSURANCE**

The annual fee for a sidewalk cafe is \$2.50 per square foot of City sidewalk used, per year.

A security deposit of \$600 is payable on approval of the sidewalk cafe. This is a one time deposit that is refundable to the applicant upon termination of the agreement, less any charges associated with maintenance or removal of the sidewalk cafe, incurred by the City.

The applicant is required to take out and maintain comprehensive general liability at all times while the Agreement is in force, as per clause 7 of Schedule "A".

## SIDEWALK CLEARANCE

To ensure pedestrian traffic is not hampered, a clear passage way at least 1.5 metres (5 feet) wide must be maintained on the sidewalk abutting the sidewalk cafe. At no point must the front of the cafe be any closer than 1.8 metres (6 feet) from the face of the curb, at the front of the sidewalk.

## DECK AND PLATFORMS

If you are building a deck or platform, it must comply with the British Columbia Building Code, and you will require a building permit.

The British Columbia Building Code states that if you are building a deck or platform, a fence or guard rail will be required.

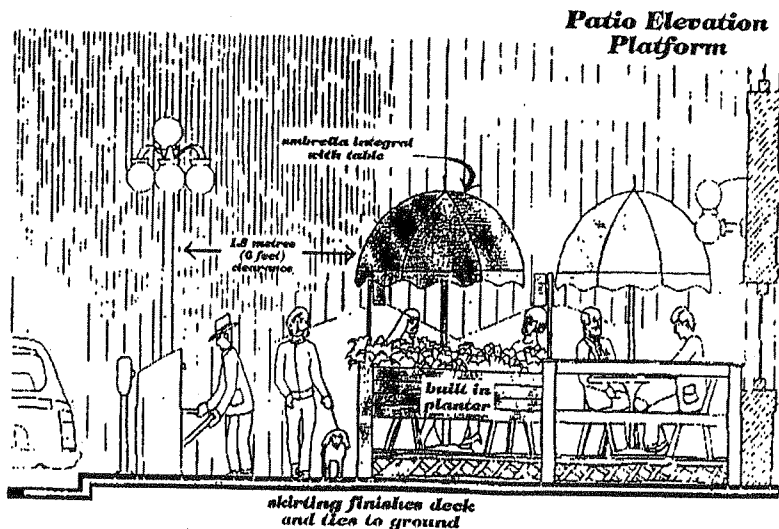
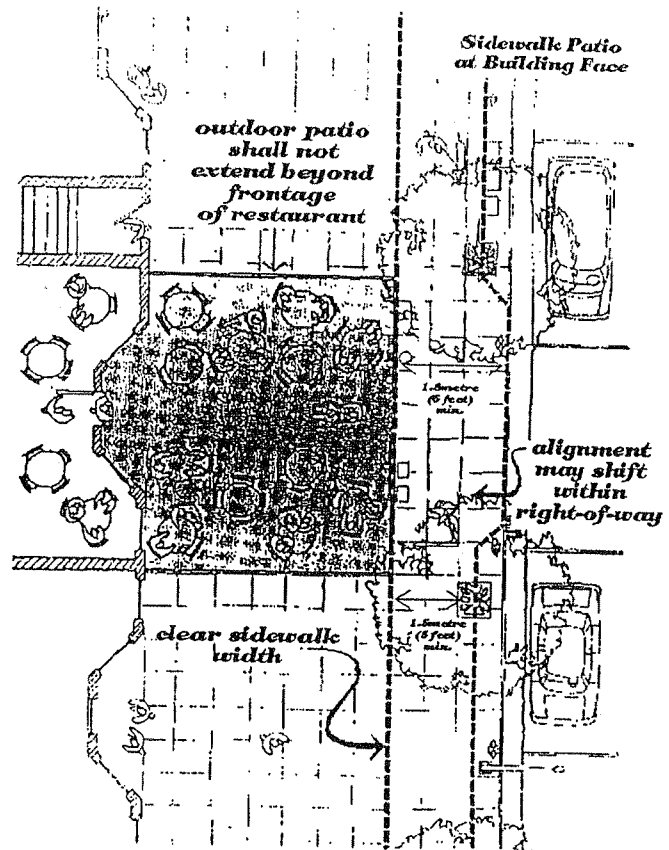
Deck or platform structures should not obstruct site drainage.

Skirting is to be applied to the exposed side of the deck or platform to screen structural elements.

All exposed materials are to be painted or stained to coordinate with streetscape elements.

## PATIO AREA

The surface area of an outdoor patio may not exceed the interior floor space of the restaurant.



## FENCES

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

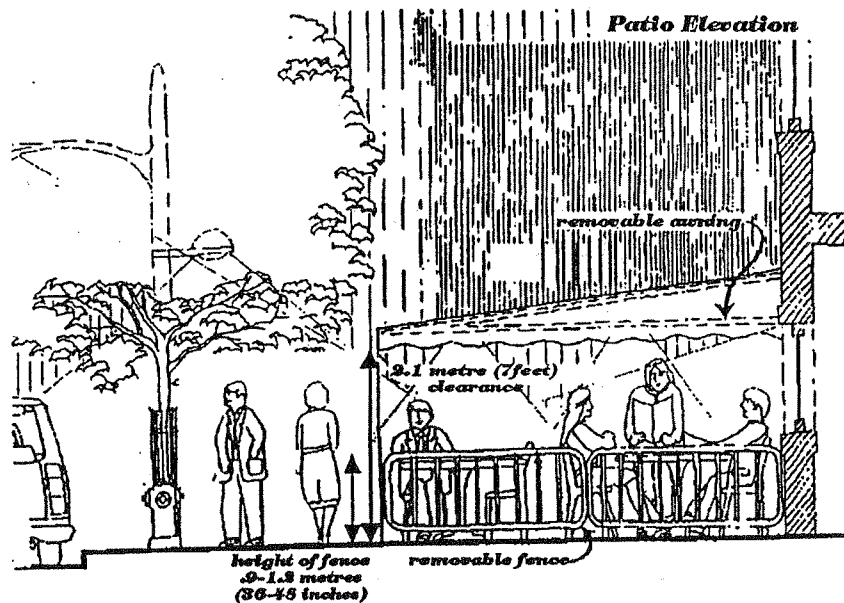
The width of any fence opening should be no greater than 1.2 metres (4 feet). The width of any fence opening should be no less than 1 metre (3 feet).

Fences must be 0.9 - 1.2 metres (36 - 48 inches) in height.

Fences and screens should be secured to the sidewalk by a method approved by the City's Engineering Department.

If the fence and furniture are dismantled, they must be stored off-site.

The design, materials and colours used in the construction of the sidewalk cafe should be compatible with the streetscape.



## AWNINGS

Construction of an awning will require a building permit.

Materials must be securely fastened to a frame which is either retractable or demountable.

Sheltering material should be prefabricated and finished to fit the supporting structure.

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



## **LIGHTING**

No exterior lighting should shine directly onto neighbouring property.

Lighting, electrical fixtures and heaters must comply with the Electrical Code and not create tripping or safety hazards.

Lighting design should coordinate with patio furnishings and streetscape design.

## **LANDSCAPING**

Plate material is encouraged for screening hard edges or structures. It is also beneficial for adding colour and interest.

Container planting of flowers, bulbs, vines and shrubs is recommended in order that plant material can be readily removable from the site. Various types of containers should be considered such as hanging baskets, window boxes, railing boxes, floor planters, bench planters, etc.

The style of containers and planters should compliment the design and materials used for other elements of the cafe (e.g., deck structures, railings and furnishings).

The size of containers or planters should be reflective to the type and quantity of plant material used. This is important from the design point of view and is also important for the health and growing conditions for the plant material (e.g., ensure there is adequate soil for healthy growth).

## GOOD NEIGHBOUR POLICIES

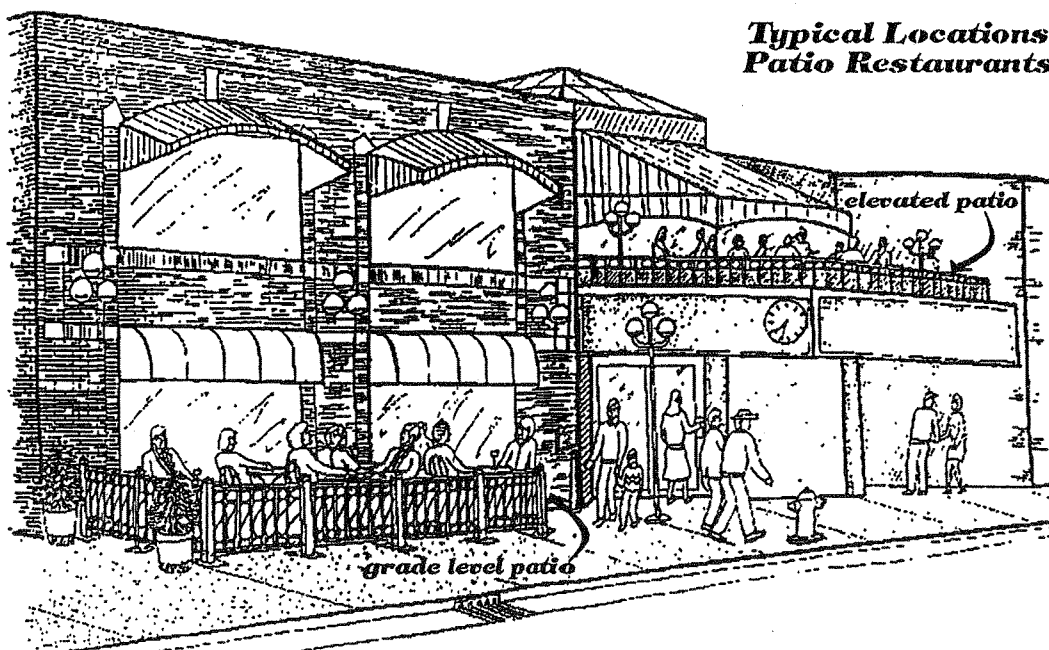
Outdoor patios can cause disturbances to nearby residences. To prevent noise disturbances, outdoor patios can not have amplified music or speakers.

Also, you must also stop serving your patrons at 10:00 pm and be cleared by 11:00 pm.

Another good neighbour policy is to ensure that your patrons are not overly noisy.

## SERVING ALCOHOL

You must get special approval from the British Columbia Liquor Control Branch to serve alcohol on your sidewalk cafe. For further information, contact the local Liquor Inspector at 951-2002



CORPORATION OF THE CITY OF NEW WESTMINSTER

BYLAW NO. 6370, 1997

A Bylaw to Permit Encroachment on City Sidewalks  
for the purpose of Operating a Sidewalk Cafe

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WHEREAS the Municipal Act R.S.B.C. 1979 c.290 empowers Council, by bylaw, to regulate uses of or involving a highway or portion of it or a public place;

AND WHEREAS the Municipal Act provides that no person may excavate in, cause a nuisance on, encumber, obstruct, injure, foul or damage any portion of a highway or other public place except as permitted by bylaw;

NOW THEREFORE, the City Council of the Corporation of the City of New Westminster, in open meeting assembled, ENACTS AS FOLLOWS:

1. This Bylaw may be cited for all purposes as "New Westminster Sidewalk Cafe Encroachment Bylaw, No.6370, 1997".
2. No person shall occupy any portion of a highway or other public place for the purpose of operating a sidewalk cafe without first entering into an Encroachment Agreement with the City, in the form attached as Schedule "A" to this Bylaw, which is incorporated into and forms part of this Bylaw (the "Encroachment Agreement"). The City is under no obligation to enter into an Encroachment Agreement with any person.
3. Every person entering into an Encroachment Agreement and encroaching on the City's streets for the purpose of operating a sidewalk cafe, shall upon execution of the Encroachment Agreement pay to the City the following:
  - (a) a flat rate fee of \$2.50 for each square foot of sidewalk encroached upon, per year;
  - (b) a security deposit in the amount of \$600.
4. No person shall encroach upon the City's streets for the purpose of operating a sidewalk cafe, unless the sidewalk cafe is an extension of a restaurant or cafe which occupies a building immediately behind the street property line.
5. No sidewalk cafe shall extend beyond the width of the abutting restaurant or cafe's frontage.

6. The outside edge of the sidewalk cafe shall not extend into the sidewalk any closer than 6 feet from the face of the curb. The minimum clearance from any obstruction on the sidewalk to the outer edge of the sidewalk cafe shall be 5 feet.

7. Every application to encroach upon the City's streets for the purpose of operating a sidewalk cafe shall be accompanied by the following:

- (a) a letter of application indicating the applicant's willingness to enter into an Encroachment Agreement with the City and providing a description of the purpose and design of the sidewalk cafe;
- (b) four copies of a site plan of the restaurant, the sidewalk cafe and the adjacent sidewalk and curb, clearly showing all exits, outside tables and chairs, bus zones, parking, landscaping and any other City street furniture to a distance of 15 feet on either side of the restaurant frontage;
- (c) such other information as may be necessary to illustrate any features of the sidewalk cafe's design.

8. The City Engineer shall have all powers and authority necessary to enforce the provisions of this Bylaw.

9. Highway Encroachment Bylaw No. 5740, 1988 does not apply to an encroachment for the purposes of operating a sidewalk cafe.

10. "New Westminster Sidewalk Cafe Encroachment Bylaw, No. 6179, 1994" is hereby repealed.

GIVEN THREE READINGS this *3<sup>RD</sup>* day of *FEBRUARY* 1997.

RECONSIDERED and FINALLY PASSED and ADOPTED and the seal of the Corporation of the City of New Westminster affixed this *10<sup>TH</sup>* day of *FEBRUARY* 1997

\_\_\_\_\_  
*[Signature]*  
\_\_\_\_\_  
MAYOR  
CITY CLERK

SCHEDULE "A"

THIS ENCROACHMENT AGREEMENT dated the            day of  
19

BETWEEN:

(the "Applicant")

AND:

CORPORATION OF THE CITY OF NEW WESTMINSTER  
City Hall  
511 Royal Avenue  
New Westminster, B.C.  
V3L 1H9

(the "City")

RECITALS

- A. The Applicant is the restaurant or cafe operator on the Lands defined in this Agreement.
- B. The Applicant has requested that the City grant its permission to use the Encroachment Area defined in this Agreement for the purpose of operating a sidewalk cafe.
- C. The City agrees to grant the Applicant's request subject to the provisions of the City's bylaws as amended from time to time and subject to the terms and conditions of this Agreement;

THIS AGREEMENT WITNESSES THAT in consideration of the promises contained in this Agreement and other good and valuable consideration THE PARTIES HEREBY AGREE AS FOLLOWS:

Lands

1. The restaurant or cafe is operated on lands situated in the City of New Westminster, British Columbia, which are more particularly described as:

(the "Lands")

5.(1) The Applicant shall at all times and at his own expense keep and maintain the Works and the Encroachment Area in good and sufficient repair to the satisfaction of the City.

5.(2) The Applicant shall not make any structural alterations to the Works without the prior written consent of the City.

5.(3) If the Applicant fails to keep the Works in good repair to the satisfaction of the City, the City may, in its sole discretion, cause such repairs to be made, including structural changes, as it deems necessary at the Applicant's expense. The Applicant shall pay the costs of the repairs to the City forthwith on demand.

#### Design Specifications

6. The Applicant shall ensure that the sidewalk cafe and the Works conform to the following requirements and specifications:

- (a) the limits of the Encroachment Area shall be demarcated by means of moveable planters and/or fences which shall be not less than 30" nor more than 48" in height;
- (b) the Works located upon the Encroachment Area shall consist only of seating, tables, umbrellas, planters and fences; and
- (c) no portion of the sidewalk cafe shall extend beyond the Encroachment Area.

#### Indemnity and Insurance

7.(1) The Applicant indemnifies and holds harmless the City from all claims of any kind, however caused, whether known or unknown, arising out of or in any way connected with:

- (i) the permission to encroach granted by this Agreement;
- (ii) the existence and use of the Encroachment Area; or
- (iii) the construction, maintenance, existence, use or removal of the Works.

7.(2) The indemnity in Subsection (1) includes, without limitation, a claim for loss or injury to persons or to property due to the Applicant's negligence or to the Applicant's failure to comply with the City's bylaws or any one of them or with any provision of this Agreement.

7.(3) The Applicant shall take out and maintain, with such companies and on such terms as are acceptable to the City, at the Applicant's expense, at all times while this Agreement is in force, comprehensive general liability

required by the City, the City may in its sole discretion, cause the works to be removed at the owner's expense.

11.(2) The City, may at any time in its sole discretion, withdraw the rights it has granted to the Applicant in this Agreement and terminate the Agreement on four weeks' notice. Should the City exercise its discretion under this Subsection, then the City shall reimburse the Encroachment Fee to the Applicant, on a proportionate basis, based on the remaining portion of the year.

11.(3) On receipt of notice under Subsection (1) or (2), the Applicant shall, within the time period stated in the notice, at his or her expense, remove the Works and otherwise restore the Encroachment Area to the satisfaction of the City.

11.(4) Where the Council of the City considers that, in its sole discretion, the interest of the public in the highway on which the Encroachment Area lies makes it necessary or advisable, the Council may shorten the time limits in this Section.

#### Assignment

12. The Applicant shall not assign any of its rights and obligations arising from this Agreement without the prior written consent of the City.

#### Right of Entry

13. The City's employees or agents shall have the right at any and all times to enter into and upon the Lands for the purpose of constructing, maintaining, inspecting or removing any public works or utility in the vicinity of the Encroachment Area or for the purpose of maintaining or removing the Works under this Agreement.

#### Alterations to City Property and Public Works

14. In the event of any alteration or change made necessary to any meter, water service, sewer or other public works or utility in the vicinity of the Lands by the construction, maintenance, use or removal of the Works, the Applicant shall reimburse the City for whatever expenses it may incur in making the alterations or changes that are deemed necessary by the City.

#### City's Rights Reserved

15. This Agreement does not in any way restrict the right of the City at any time to widen, raise or lower the highway or boulevard abutting or adjoining the Lands, even if the effect of the alteration in width or elevation or both may be to render the Works, the Encroachment Area, or both useless for the purposes of the Applicant.

23. This agreement shall enure to the benefit of and be binding on the parties hereto NOTWITHSTANDING any rule of law or equity to the contrary.

24. This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia.

25. IN WITNESS WHEREOF the parties have executed this Agreement under seal.

SIGNED, SEALED AND DELIVERED )

by \_\_\_\_\_ )  
in the presence of: )

\_\_\_\_\_  
Witness )

\_\_\_\_\_  
Address )

\_\_\_\_\_  
Occupation )

\_\_\_\_\_  
(Insert Name of Applicant)

The Corporate Seal of the City )  
was hereunto affixed in the )  
presence of: )

\_\_\_\_\_  
Mayor )

\_\_\_\_\_  
City Clerk )