

# Town of Antigonish Sidewalk Café By-law

(As adopted, June 20, 2005)

## Sidewalk Café:

For the purpose of this by-law, a sidewalk café is defined as a group of tables and chairs and other accessories situated and maintained upon a public sidewalk or other pedestrian area, for the use and consumption of food and beverages sold to the public from, or in, an adjoining indoor food and beverage establishment.

## Approval Requirements:

1. No person or corporation shall establish a sidewalk café unless approval has been granted by the Municipality of the Town of Antigonish, (hereinafter called "the Municipality"), and the Municipality may impose such terms and conditions deemed necessary to conform with the guidelines contained herein.

Prior to granting an approval, the Municipality shall refer a completed application to:

- a) Property owners abutting the area proposed for the Sidewalk Café;
- b) The Traffic Authority of the Town of Antigonish;
- c) The Town Engineer of the Town of Antigonish; and
- d) The Heritage Committee, where the installation is located adjacent to a registered heritage property.

Upon receiving advice from the above noted, the Municipality may refuse to grant approval or impose such terms and conditions as are consistent with the guidelines contained herein.

2. Appeal: An applicant may appeal the Municipality's decision to the Municipality's Council.
3. Revocation of Approval: Where a person fails to conform with the terms and conditions of approval, then the Municipality may order that the sidewalk café be removed from the public sidewalk on which it is located. If the operator fails to comply with such an order within 24 hours of notification, the Municipality may take such action needed to have the sidewalk café removed.
4. Permits Required: The operator of a sidewalk café shall apply for and obtain, annually, a *Sidewalk Café Permit* prior to commencement.
5. Sidewalk Rental Fee: There shall be an application fee in the amount of \$100.00 per year. Further, where parking meters are removed to accommodate a sidewalk café, there shall be an additional fee of \$250 per meter, per season.
6. Information Requirements: The applicant shall submit a site plan, drawn to a minimum scale of ¼ inch to 1 foot, which shows the delineated area of the proposed sidewalk café and proposed location and placement of planters, awnings, tables, chairs, fences and all other accessories in relation to the public sidewalk and to the indoor restaurant associated with it. The plan shall show the location of utility poles, hydrants, parking metres, manholes, traffic signs, catch basins, and any other physical or drainage feature of the street within 20 feet of the proposed development.
7. Design: The design of sidewalk café should be consistent with the age and character of the building for which it serves as an accessory use, and where the municipality has established design guidelines for a specific area, these shall be considered in review of applications.
8. Conditions of Approval:
  - a) Insurance: The operator of a sidewalk café must carry a minimum of \$1,000,000 liability insurance for the operation of the sidewalk café and must indemnify the Municipality safe and harmless from any and all claims of injury to persons, or damage to property attributable, in whole or in part, to the existence, location and operation of a sidewalk

- café in the public right -of- way. Proof of insurance shall be provided before the permit is issued. Such insurance shall require notification to the Municipality ten (10) days before cancellation.
- b) Costs: Costs associated with assessing any application for a sidewalk café shall be born by the applicant.
  - c) Accessory Use: Sidewalk cafés shall be located adjacent to an existing food and beverage establishment and shall be considered an accessory use.
  - d) Hours of Operation: A sidewalk café shall be operated for no longer than the operating hours of the principle use to which it is accessory, and in any event must be closed not later than 12:00 A.M. on any given day.
  - e) Sidewalk Reservation: The minimum sidewalk reservation to be incorporated in a sidewalk café design shall be 2.1 metres (7.0 ft) wide. The Municipality may consider reduction of that reservation where the design of the café leaves sufficient clear space for the safe movement of pedestrians, but in no case shall the sidewalk width be less than 1.5 metres (5.0 ft) wide.
  - f) Temporary Sidewalks: Where the sidewalk café extends the width of the existing sidewalk, the operator shall provide temporary sidewalk adjacent of the sidewalk café, subject to the approval of the Town Engineer who shall consider street design and infrastructure issues and Traffic Authority who shall consider traffic movement and pedestrian safety issues.
  - g) Fencing: Sidewalk cafés may be fenced around the perimeter but fences shall not exceed 1 metre (3 ft) in height. Open fencing is preferred to solid fencing, but fabric insert panels may be used. Fencing should incorporate a solid base perimeter to facilitate identification of the barrier by visually impaired individuals. Any fencing located within 6 metres (20 ft) of an intersection shall not obstruct the vehicular view angles as determined by the Traffic Authority. Further, where street lighting is inadequate to illuminate the fenced area, overnight lighting must be provided by the operator.
  - h) Structures and Awnings: The installation of structures and / or awnings requires a development and building permit.
  - i) Umbrellas: Any umbrellas shall be located entirely within the approved sidewalk café area.
  - j) Waste and Storage: The sidewalk café operator shall maintain the sidewalk café area, and the immediately adjacent area, in a clean and safe condition at all times. Waste receptacles and work stations should be located along the building wall. The operator shall also ensure any refuse originating in the café area is removed from the street right-of-way.
  - k) Access: The operator shall maintain a minimum width of 1.1 metres (3 ft 6 in) of unobstructed walkway to the entrance of the building. Barrier free access shall be maintained.
  - l) Landscaping: Landscaping of the sidewalk café is encouraged but should be of a temporary nature unless otherwise approved. Plant material must be contained within the approved sidewalk café area.
  - m) Lighting: Any lighting of the sidewalk café shall not project onto adjacent properties nor conflict with traffic control indicators.
  - n) Location: The sidewalk café shall not extend beyond the frontage of adjacent buildings, without the written consent of the affected property owner.
  - o) Signs and Advertising: Any signs or advertising within the sidewalk café area requires a development permit and shall conform to the Land Use By-law.

- p) Removal of Improvements: Sidewalk café furnishings, fences, awnings, screens, signs, lighting and other sidewalk café improvements must be removable and not permanently fixed in place. All objects must be contained within the approved sidewalk café area and removed during the off-season or after the sidewalk café ceases operation. The street, sidewalk and municipal property must be restored to its original condition to the satisfaction of the Municipality.
  - q) Noise: Music or other entertainment provided for patrons of a sidewalk café shall not create a nuisance to abutting property owners. The Municipality reserves the right to revoke permits, without reimbursement of fees, where this nuisance occurs. Nuisance may include, but shall not be limited to, loud, boisterous, or unreasonable noise, offensive language or other disruptive behavior.
  - r) Utility Access: The Municipality and all public utility agencies retain the right of access to the approved sidewalk café area for the installation, maintenance and repair of pipes, cables, wires, poles, hydrants, etc. as necessary. In case of emergency, no notice may be given. For scheduled work, a minimum notice of forty-eight (48) hours will be given. Sidewalk café improvements shall be removed and reinstalled at the sidewalk café operator's expense.
  - s) Emergency Vehicle Access: The Town of Antigonish retains the right of access to the approved sidewalk café for emergency vehicle access.
9. Season: The months of operation shall be May 1st through October 30th unless otherwise approved.

**Clerk's Annotation For Official By-Law Book**

Date of First Reading April 18/05  
 Date of Advertisement of Notice of Intent to Consider May 11/05  
 Date of Second Reading June 20/05  
 \*Date of Advertisement of Passage of Bylaw July 1/05  
 Date of Mailing to Minister a Certified Copy of Bylaw July 6/05  
 I certify that this Sidewalk Cafe Bylaw was  
 adopted by Council and published as indicated above.

\_\_\_\_\_  
Clerk

July 6/05  
Date

\*Effective Date of the Bylaw unless otherwise specified in th text of the Bylaw.

**Schedule A  
Town of Antigonish**

*APPLICATION FOR SIDEWALK CAFÉ OPERATION*

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Name of Business: \_\_\_\_\_

Contact Person (Title or Position): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

e-mail: \_\_\_\_\_

Address of Property (if different from above): \_\_\_\_\_

- Please attach a dimensional design of the proposed sidewalk café showing compliance with Section 8 of the Sidewalk Café By-law of the Town of Antigonish.
- Please attach a copy of the liability insurance naming the Town of Antigonish as co-insured along with a letter from your insurer confirming the requirements of Clause 8(a) of the Sidewalk Café By-Law.

**APPROVAL**

Conditions:

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\_\_\_\_\_

\_\_\_\_\_

Attachments: \_\_\_\_\_

Effective Date: \_\_\_\_\_, Ending Date: \_\_\_\_\_

Development Officer: \_\_\_\_\_  
Town of Antigonish Planning and Development Department

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