

Town of Pictou

Sidewalk Cafés Bylaw

1) PURPOSE:

To provide consistent guidelines for food establishments/restaurants (“Owner”) when Sidewalk Cafés are being considered as a seasonal expansion which provides an outdoor seating and dining area.

2) DEFINITION:

For the purpose of this By-Law, *Sidewalk Cafés* are defined as a group of tables and chairs, and other accessories belonging to the Owner establishing the *Sidewalk cafés*, situated and maintained upon a public space, including and not limited to sidewalks or pedestrian malls, for the use and consumption of food and beverages sold to the public, from or in, the adjoining indoor food and beverage establishment.

3) REQUIREMENTS:

a) Hours of Operation:

The hours of operation for Sidewalk Cafés shall be provided with the application. Sidewalk Cafés shall be operated for no longer than the operating hours of the food establishments/restaurants with which it is associated.

b) Sidewalk Use:

- i) Where the Sidewalk Cafés inhibits free flow of pedestrian traffic, in the opinion of the Town, the Owner shall provide a temporary sidewalk adjacent to the Sidewalk Cafés, subject to the approval and specifications of the Town. Consideration will be given to accessibility and for traffic movement and safety based on the approval of the Traffic Authority. “*Specifications*” noted above shall be those attached here as Schedule “A.”
- ii) Temporary sidewalks are required when existing sidewalks are reduced below 5 feet (1.5 meter).
- iii) Sidewalk Cafés shall not extend onto the frontage of abutting property owners.
- iv) Temporary sidewalks must be full width of approved material. The use of a portion of existing sidewalk and a temporary sidewalk less than approved width is not permitted.

c) Design:

The design of the Sidewalk Cafés should be consistent with the age and character of the building to which it is associated. As the Town wishes to enhance the beauty of the downtown area with aesthetically pleasing designs and plantings, the inclusion of these items shall be considered in review of all applications.

d) Fencing:

- i) Sidewalk Cafés shall be fenced, and the fencing component shall not exceed 3 feet (1 metre) in height.
- ii) Fencing shall be comprised of vertical rails only; fabric insert panels may be used.
- iii) Fencing should incorporate a solid base perimeter to facilitate identification of the barrier by visually impaired individuals.
- iv) Any fencing located within 20 feet (6 metres) of an intersection shall not obstruct the vehicular view angles, as determined by the Town's Municipal Planning Strategy and Land-Use Bylaw.

e) Sidewalk Guard/Barrier:

- i) A secure, continuous guard or railing is required along the outside edge of the temporary sidewalk.
- ii) Guard must be able to support horizontal load at top rail and be constructed to prevent a person from exiting the channelized temporary sidewalk
- iii) The use of rope and uprights is prohibited.

f) Umbrellas:

Umbrellas shall be located entirely within approved Sidewalk Cafés and not protrude into public space.

g) Waste and Storage:

- i) The Sidewalk Cafés Owner shall maintain the Sidewalk Café, and immediately adjacent areas, in a clean and safe condition at all times.
- ii) Waste receptacles and workstations should be located along the building wall. Waste receptacles are to be emptied no less frequently than daily.
- iii) The Owner shall ensure any refuse originating in the Sidewalk Café is removed from the street right-of-way.

h) Access:

The Owner shall maintain a minimum width of 3 feet 6 inches (1.1metres) of unobstructed (barrier free) walkway to the entrance of the building.

i) Lighting:

Lighting for Sidewalk Cafés shall be of a temporary nature and shall not project onto adjacent properties, nor conflict with traffic control indicators.

j) Furnishings:

All tables, chairs and decorative accessories in the Sidewalk Cafés shall be constructed using weather resistant materials and be of consistent design.

k) Removal of Improvements:

- i) Sidewalk Cafés furnishings, fences, sidewalk guards/barriers, awnings, screens, signs, lighting, and other Sidewalk Cafés improvements must be removable and not permanently fixed in place.
- ii) All objects must be contained within the area approved for the Sidewalk Cafés.
- iii) All objects must be removed during the off-season (Oct 30 to May 1) or after the Sidewalk Café ceases operation.
- iv) Where the Sidewalk Café ceases operation prior to the closing date provided, the street, sidewalk and municipal property must be restored to its original condition, to the satisfaction of the Town Engineer within 14 days from the date of the operation ceasing
- v) When the operation ceases, as stated in the approval, the street, sidewalk, and municipal property must be restored to its original condition, to the satisfaction of the Town Engineer.

l) Noise:

Music or other entertainment provided for patrons of Sidewalk Cafés shall not create a nuisance to abutting property owners. The Town reserves the right to revoke or amend permits where this nuisance occurs.

m) Utility Access:

- i) The Town of Pictou and Utility agencies retain the right of access to approved Sidewalk Cafés, for the installation, maintenance and repair of pipes, cables, wires, poles, hydrants, etc., as necessary.
- ii) In case of emergency, no notice may be given, although for scheduled work, a minimum notice of 48 hours will normally be given.
- iii) Sidewalk Cafes and eating area improvements shall be removed and reinstalled at the Owner's expense.

n) Emergency Vehicle Access:

The Town of Pictou retains the right of access to the approved Sidewalk Cafés for emergency vehicle access.

4) APPROVAL PROCESS:

- a) No Owner shall establish a Sidewalk Cafés unless the Town of Pictou have granted approval. Application for approval shall be made to the Development Officer. An administrative fee of \$100.00 is applicable at the time of application. Approval for a Sidewalk Café includes a development permit issued by the Development Officer. Information required as part of the development permit application shall include that outlined in the Land Use Bylaw (Part 3/Sect. 14) as well as that information required to ensure compliance with Clauses 3 and 4 contained herein, including a sketch showing all existing utilities (poles, hydrants, utility access holes, traffic signs, catch basins, etc.). Prior to approval, the Traffic Authority and Town Engineer shall review applications. A written recommendation shall be provided to Pictou's Committee of the Whole for final endorsement where parking stalls are to be utilized as part of the establishment of a Sidewalk Café. Upon completion of the above steps, the required development permit shall

be issued.

b) The Application must identify the following Sidewalk Café area approval dates:

- construction/installation start date
- construction/installation completion date
- operations start date
- operations end date
- construction/installation removal date.

NOTE: Construction/installation of Sidewalk Cafés are permitted after May 1st where approval has been granted. Removal of Sidewalk Cafés must be completed prior to October 30th. Removal is to include those measures identified in k) Removal of Improvements sub-Clause (i) through (v).

c) An approved development permit application may be revoked should the guidelines not be met, or deficiencies not be satisfactorily resolved. Notification of this decision will be provided in writing to the applicant, along with those shortcomings identified.

d) **Revocation of Approval:**

When an Owner fails to conform to the terms and conditions of approval, the Town of Pictou may order that the Sidewalk Cafés be removed from the public sidewalk on which it is located. If the Owner fails to comply with such an order within 24 hours notification, the Town may take such action needed to have the Sidewalk Cafés removed at the Owners expense.

e) **Insurance:**

- i) The Owner of a Sidewalk Cafés must carry a minimum of \$5,000,000.00 liability insurance for the operation of the Sidewalk Cafés and must indemnify the Town of Pictou and save it 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 Cafés in the public right-of-way.
- ii) Proof of insurance shall be provided before the permit is issued.
- iii) The Town of Pictou shall be notified in with not less than 10 days before the cancellation of this insurance.

f) **Operating Season:**

Operation of Sidewalk Cafés shall be from May 15 until October 15, unless otherwise approved.

g) **Other Approvals:**


Approval for a Sidewalk Café is contingent upon the approval of the Department of Health, the Fire Marshal, Liquor Licensing Board (where applicable) and any other regulatory bodies governing the sale of food and/or beverages or public health.

h) **Appeals:**

An applicant may appeal to Council, the Development Officer's decision to refuse to grant approval or the terms and conditions of the approval imposed.

CAO ANNOTATION

I certify that the above SIDEWALK CAFÉ BY-LAW was adopted by Pictou Town Council at duly called meetings and was published as indicated above.



Chief Administrative Officer

Bylaw Adoption	
First Reading	February 21, 2023
Advertisement of Notice of Intent to Consider	February 28, 2023
Second Reading	March 20, 2023
Ministerial Approval of By-law	
Advertisement of Passage of By-law	

Version Number	Amendment Description	Council Approval Date
1	Original	March 20, 2023

Schedule "A"

Sidewalk Café Design Specifications

Part I: General

1. Sidewalk cafés shall be adjacent to the principal use property.
2. Sidewalk cafés shall not extend onto the frontage of other properties.
3. Sidewalk café signage shall comply with any By-law respecting the licensing of temporary signs.
4. Sidewalk cafés shall comply with the Canadian Standards Association (CSA) Accessible Design for the Built Environment, CSA Standard B651, as amended from time to time.
5. The design of the café or the arrangement of the furniture shall not restrict access to emergency exits.
6. The design of the café or the arrangement of the furniture shall not restrict access to any above ground utility meters or shut-off valves

Part II: Barrier

1. All sidewalk cafés licensed for alcohol must be enclosed by a barrier between the enclosed café and the sidewalk.
2. A barrier shall be setback at least 0.45 m (1' 6") from any municipal street furnishings.
3. The barrier shall be installed in such a way that it does not reduce the unobstructed sidewalk width to less than 1.5m (5'), failing which, a temporary sidewalk shall be installed by the proprietor adjacent to the sidewalk café.
4. The minimum barrier setback from fire hydrants shall be 1.2 m (4').
5. Barriers shall be at least 0.9 m (3') in height, and no more than 1.2 m (4') high.
6. Barriers higher than 0.9 m shall be at least 30 m (98') away from the nearest intersection.
7. Barrier footings shall not penetrate the sidewalk.

Part III: Temporary Sidewalk

1. Placement of temporary sidewalks shall not impede vehicular and pedestrian traffic movement or safety.
2. Temporary sidewalks shall be a minimum width of 1.5 m (5') of unimpeded, clear travel way.

3. Temporary sidewalks shall be guarded by an approved traffic barrier at ends exposed to vehicular travel. The concrete barrier shall be clad with suitable material to improve the aesthetic of the traffic barrier. Reflective signage tape shall be installed on the cladding/covering, to provide visibility/definition of the end structure at night.
4. Traffic barriers shall be no less than .81 m (2' 8") in height and no more than 1.05 m (3' 6") in height (in total of all elements).
5. Traffic barriers shall incorporate reflectors.
6. Temporary sidewalk surfaces shall be slip resistant.
7. Temporary sidewalk surfaces shall not impede pedestrian movement.
8. Temporary sidewalk construction shall maintain existing drainage patterns and storm water runoff volumes.
9. An approved pedestrian guard/railing shall be installed between the outside of the sidewalk edge and the vehicle travel way (i.e., street). The guard/railing must meet the requirement of the engineer and be approved prior to construction.

Part IV: Decks

1. Decks shall be as close to the elevation of the existing sidewalk grade as possible (accommodating a level surface area and deck framing).
2. Decks shall not be constructed over underground services (hydro vaults, chambers, maintenance holes, utility access holes, valves, etc.), without prior written approval from the relevant public utility, and must provide access to the infrastructure to the satisfaction of the affected utility.
3. Where alternate barrier-free access to the principal use property is not available, a ramp shall be provided within the deck area to facilitate barrier-free access.

Part V: Furnishings

1. Plant material shall be contained within the sidewalk café. Required plantings shall consider sidewalk café site aesthetics and placement.
2. Umbrellas shall:
 - a) be made of non-combustible material; and
 - b) when open, not extend beyond the sidewalk café's barrier.

Part VI: Lighting

1. Sidewalk café lighting shall not project onto adjacent properties.
2. No sidewalk café shall place or permit lighting that, in the opinion of the Engineer, may:
 - a) be confused with any traffic signal light, control sign or device;
 - b) obstruct or interfere with the movement of motorists or pedestrians at any street intersection, any driveway street connection, any railway crossing or bridge;
 - c) produce or cause glare to motorists, pedestrians, or neighbouring premises;
 - d) moves or appears to move.