

The Corporation Of The City Of North Bay

By-Law No. 2023-25

**Being A By-Law to Amend By-Law 2016-30
(Sidewalk Patio Policy)**

Whereas section 10.2(5) of the *Municipal Act, 2001*, as amended, provides that a municipality may adopt a By-Law with respect to economic, social and environmental well-being of the municipality.

And Whereas Council passed Resolution No. 2016-116 at its Regular Meeting of Council held on Monday, March 7, 2016, authorizing that the Sidewalk Patio Policy be adopted.

And Whereas Council passed Resolution No. 2023-55 at its Regular Meeting of Council held on Tuesday, January 31, 2023, authorizing amendments to the Sidewalk Patio Policy.

Now Therefore the Council of the Corporation of the City of North Bay Hereby Enacts as Follows:

1. That Schedule "A" to By-Law 2016-30 be deleted and the attached Sidewalk Patio Policy attached hereto as Schedule "A" be inserted in lieu thereof.
2. This By-Law shall take force and effect upon being passed.

Read a First Time in Open Council this 14th day of February, 2023.

Read a Second Time in Open Council this 14th day of February, 2023.

Read a Third Time in Open Council and Enacted and Passed this 14th day of February, 2023.

Mayor Peter Chirico

Deputy City Clerk Veronique Hie

THIS IS SCHEDULE "A"
TO THE CORPORATION OF THE CITY OF NORTH BAY
BY-LAW 2023-25



Sidewalk Patio Policy

Issued: March 7, 2016	Revision Dates: March 8, 2022 January 31, 2023	Approved by Council Resolution: 2016-116 2022-85 2023-55
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1. Policy

The City of North Bay, having jurisdiction over public Rights of Ways and other public lands, supports the establishment of sidewalk patios within the Downtown Improvement Area. As a result, Council authorizes the Chief Administrative Officer and the City Clerk to enter into Sidewalk Patio Agreements for the purpose of regulating and approving sidewalk patios on City owned lands within the Downtown Improvement Area, subject to the terms and conditions set out in the Agreement.

2. Definitions

Pop Out Sidewalk means publicly owned lands within North Bay's Downtown Improvement Area regularly used for on-street parking, which are contiguous to a sidewalk patio and provide temporary accommodation for pedestrian movement around the sidewalk patio, subject to entering into a Sidewalk Patio Agreement with the City of North Bay.

Sidewalk Patio means publicly owned lands within North Bay's Downtown Improvement Area contiguous to an indoor restaurant that are not enclosed by walls or a roof, where seating is provided for food and beverages to be served to the public or is used for an extended retail space, subject to entering into a Sidewalk Patio Agreement with the City of North Bay.

3. Background/Purpose

In May, 2015 Council directed Staff to establish a one season working agreement for a pilot project to test the viability of utilizing publicly owned sidewalk and on-street parking spaces in front of downtown businesses to establish sidewalk patios. This pilot project involved the development of a one season working agreement with "Tiny Italy" in order to grant them non-exclusive use of public property to establish such a sidewalk patio in front of their business at 334 Wyld Street from June 30, 2015 to October 2, 2015. The proprietor entered into an agreement with the City of North Bay and operated a temporary sidewalk patio and a temporary pop out sidewalk which occupied the sidewalk and three on-street parking spaces.

The establishment of sidewalk patios in the Downtown Improvement Area (DIA) would contribute to the attractiveness and vibrancy of the downtown core. Patios can enhance the ambiance of an area, resulting in the attraction of visitors and increased spending.

The results of the pilot project have been analyzed and the following policy has been developed in order to establish a standard process for business owners in the DIA to apply to establish outdoor patios that encroach onto property owned by the City of North Bay. Subject to provisions, this policy allows businesses located within North Bay's DIA to apply to enter into a Sidewalk Patio Agreement with the City of North Bay to occupy municipal sidewalks and on-street parking spaces from the Victoria Day long weekend in May to the Thanksgiving long weekend in October in order to establish sidewalk patios while maintaining pedestrian movement and protecting the public interest.

4. Cost

The construction and maintenance of any sidewalk patio or pop out sidewalk shall be wholly at the expense of the Applicant. The City of North Bay will not be required to pay for any work or supply any equipment required to make public lands more suitable for the proposed sidewalk patio or pop out sidewalk.

The Applicant may be eligible for an incentive under the Growth Community Improvement Plan for up to \$1000 associated to design drawings and up to \$1000 for construction of the Sidewalk Patio.

5. Design Requirements

- 5.1 In order to be approved, sidewalk patios shall:
- Maintain a walkway with a minimum width of 1.8 metres to accommodate pedestrian movement around the sidewalk patio. This walkway may be located either on the existing public sidewalk or through the construction of a pop out sidewalk in the location of on-street parking;
 - Feature fencing or another vertical barrier that delineates the perimeter of the patio. The barrier shall utilize colour contrast to benefit people with visual impairments;
 - Not impact public access to or from adjoining lands; and
 - Be temporary in nature.
- 5.2 Where pop out sidewalks are required in order to accommodate pedestrian movement around the sidewalk patio, these temporary walkways shall:
- Feature fencing or another vertical barrier which separates the walkway from vehicle traffic;
 - Be designed and constructed so that there is no change in grade between the sidewalk and the pop out sidewalk;
 - Feature accessible signage;
 - Accommodate stormwater drainage;
 - Be located on the lands directly in front of the business applying to enter into the Sidewalk Patio Agreement;
 - Not be located where there are accessible parking spaces or loading zones or where access to those spaces may be impacted; and
 - Not be affixed to City property.
- 5.3 Should two or more eligible neighbouring businesses apply to establish sidewalk patios, patios and sidewalks shall be designed to provide one continuous path of travel for pedestrians.

6. Application Process

- 6.1 Applications shall be submitted to the City of North Bay's Planning Department. The Planning Department will advise the Engineering, Building, Parking and By-law Enforcement Departments of the application and request their comments. Subject to approval from these departments the Planning Department will then coordinate the completion of the Agreement between the City and the Applicant.
- 6.2 In order for applications to be deemed complete, applicants shall be required to submit the completed Application Form and design drawings, including a site plan and elevation, certified by a registered designer.
- 6.3 In order to be considered eligible, Applicants must comply with all applicable federal, provincial and municipal laws and pay all outstanding taxes and fines which remain unpaid after the applicable due date.
- 6.4 Applicants shall meet all requirements of the Alcohol and Gaming Commission of Ontario, if applicable.

7. Agreement

- 7.1 Successful applicants shall enter into a Sidewalk Patio Agreement with the City of North Bay. The Sidewalk Patio Agreement shall be standard for all applicants and will permit the lease of City owned property to permit the establishment of sidewalk patios and pop out sidewalks and outline the requirements, responsibilities and liability associated with the encroachment.
- 7.2 Prior to the execution of the Sidewalk Patio Agreement, the Licensee will be required to provide the following:
- A Certificate of Insurance for public liability (personal injury and property damage insurance) in the minimum amount of five million dollars (\$5,000,000.00) naming “the Corporation of the City of North Bay” as an additional insured. This insurance must be maintained throughout the duration of the Agreement;
 - A Certificate issued by the Workplace Safety and Insurance Board. This certificate must be current throughout the duration of the Agreement; and
 - The direct costs related to the registration costs associated with registering the document on title on the subject property.
 - A Rental Fee of \$100 per month/parking space. Where the sidewalk patio encroaches only on the sidewalk, the Rental Fee does not apply. The above mentioned fees will periodically be reviewed as part of the User Fee By-law and subject to change.
- 7.3 All Sidewalk Patio Agreements and supporting documents must be approved by the City Solicitor prior to the execution of the Agreement.
- 7.4 Council delegates authority to the Chief Administrative Officer or their designate and the City Clerk to enter into Sidewalk Patio Agreements on behalf of the City of North Bay.

8. Agreement in Effect

- 8.1 Licensees shall be responsible for maintaining the appearance of the leased lands and any furniture or fixtures. Licensees shall ensure that no litter, garbage or objectionable material accumulates on or around the lands.
- 8.2 Licensees shall provide written confirmation by a the registered designer that any sidewalk patio or pop out sidewalk has been constructed as proposed in the Sidewalk Patio Agreement within thirty (30) days of the acquisition of the lands.
- 8.3 The City of North Bay shall maintain the right to enter the leased lands in order to carry out repairs or maintenance to municipal infrastructure. The City shall provide written notice five (5) days prior to entering the lands, except in the case of emergencies. The Licensee shall be responsible for restoring any fixtures following the completion of any repairs or maintenance.

9. Expiration/Termination of the Agreement

- 9.1 Licensees shall remove all fixtures related to the sidewalk patio and pop up sidewalk prior to the expiration of the Sidewalk Patio Agreement and restore the leased lands to their previous condition. Should a Licensee fail to do so, the City of North Bay will have the authority to remove any remaining fixtures at the Licensee’s expense.
- 9.2 The City of North Bay retains the right to terminate any Sidewalk Patio Agreement at any time.

Appendix A

Temporary Physical Extension of Licensed Premises

The City of North Bay has developed the following guidelines for approvals of temporary outdoor physical extensions of licensed premises under Section 153.1 of Regulation 746/21 of the *Liquor Licence and Control Act*, 2019, S.O. 2019, c. 15, Sched. 22

Site Plans:

All new and expanded patios are required to prepare a site plan for the review and approval of the City of North Bay. The site plan must include the following:

- The location and size of the proposed patio or patio expansion on the property, including the location of any buildings or existing patios on site
- The location of existing and proposed new pedestrian and vehicular paths of travel
- The capacity of the area to which the extension would apply allows for at least 1.11 square metres per person

In Downtown North Bay:

- Patios are supported through the City's Sidewalk Patio program. Support for the creation of the sidewalk patio is available through the Growth Community Improvement Plan. To learn more about this program visit: <https://www.northbay.ca/services-payments/building-development/growth-community-improvement-plan/>
- You are required to enter into a Sidewalk Patio License Agreement with the City of North Bay, including the provision of insurance. A template of this agreement is available here: <https://www.northbay.ca/services-payments/building-development/downtown-sidewalk-patios/>

Requirements for all locations:

- Patios are not permitted to expand into yards adjacent to residential zones
- You must have washrooms available for the use of your patrons and staff
- You must meet and maintain all required accessibility standards
- An amendment to any existing Site Plan Control Agreement will not be required.
- No smoking is permitted on patios or expanded patio areas. All requirements of the *Smoke Free Ontario Act* are required to be maintained.
- The licensee is able to demonstrate sufficient control over the area to which the extension would apply
- There is no condition on the liquor licence prohibiting a patio.
- The licensed premises would not be subject to a temporary outdoor physical extension for more than a total of eight months in a calendar year.
- The municipality shall specify the maximum duration of an approved temporary outdoor physical extension.
- An approval may be granted with respect to one or more calendar years, as specified by the municipality.
- The licensee is required to notify AGCO: [Notifying the AGCO of an Approved Temporary Outdoor Physical Extension \(Temporary Patio\) | Alcohol and Gaming Commission of Ontario](#)

When is a Building Permit Required?

- When your patio is constructed more than 12 inches off the ground a building permit is required
- If your patio requires a building permit the design of your patio **must** be completed by a Professional Engineer or Architect or other qualified professional.
- Any tent that is 225m² (2,420 ft²) or larger requires a building permit and must be engineered; most of the tents from rental agencies do come with engineered drawings for erection and anchorage. This will need to be provided with your permit application. Regardless of their size, the canopies for all tents need to be fire retardant material.
- All tents also must be setup a minimum of 10 feet from any other structure