

## Schedule E

### Sidewalk Permits

#### PART 1. GENERAL

1. Upon receiving from an applicant for a Sidewalk café or Sidewalk sale, a completed application in a form approved by the General Manager, together with the fee established in the District's *Fees and Charges Bylaw, No. 2012, 2007*, and on being satisfied that the applicant can and will comply with the specifications and guidelines contained in this Schedule and any further requirements to be established by agreement, the General Manager may, on behalf of the District, enter and execute a Licence Agreement, up to a maximum term of three (3) years, substantially in the form of Schedule "F". Once executed by both or all parties, the Licence Agreement constitutes a "Sidewalk Permit".
2. A person who has been issued a Sidewalk Permit must ensure that this Bylaw, and all of the restrictions, requirements, terms and conditions of the Sidewalk Permit are met.

#### PART 2. SIDEWALK CAFE

##### Specifications

3. The following specifications apply to all sidewalk cafes as conditions and requirements of a Sidewalk Permit:
  - (a) A sidewalk cafe must be an extension of, and appurtenant to, a restaurant or cafe directly adjacent to the proposed sidewalk area ("Licence Area").
  - (b) The outside boundary of a sidewalk cafe must not be located within 6 metres (20 feet) of any street corner.
  - (c) A sidewalk cafe must not extend beyond the width of the frontage of an adjacent premises or lot without specific written permission from the General Manager and complying with any conditions the General Manager considers to be reasonable and necessary in the circumstances.
  - (d) The proposed area for a sidewalk café shall not leave less than 1.5 meters (5 feet) of clear, unobstructed sidewalk for pedestrian use ("Licence Area").
  - (e) All amenities must be contained within the Licence Area.
  - (f) A removable fence may be required for a Licence Area.
  - (g) All sidewalk cafés must be wheelchair accessible unless it is shown to the satisfaction of the General Manager to be impractical.
  - (h) Sidewalk cafes shall be flush and level with the sidewalk unless it can be shown to be impractical in which case steps or a ramp may be permitted.

- (i) In the case where a sidewalk café is accessed from inside a building, the floor of the sidewalk café must be flush and level with the floor of the building.
- (j) Where a sidewalk café is situated on a sloped grade, the point of entry must be flush and level with the sidewalk unless it is shown to be impractical in which case steps or a ramp may be permitted.
- (k) Abrupt changes in the elevation of the seating area must not exceed 13 mm.
- (l) Design and construction of the sidewalk café seating area must take into account the crossfall from the sidewalk and street and must accommodate the free flow of water along the gutter/curb line.
- (m) Seating area surfaces must allow for the free flow of water through the surface or shall be sloped to drain to a suitable location.
- (n) Seating area surfaces must be non-slip and maintenance free. The use of carpet is prohibited.
- (o) All sidewalk cafes require guardrails to separate the patrons from vehicle traffic and the remainder of the sidewalk. Construction of the guardrails shall conform to the current edition of the *B.C. Building Code* and shall include reflective tape or a similar product approved by the General Manager at the four corners of the Licence Area.
- (p) The applicant must obtain and provide evidence to the District of receipt of all necessary permits and approvals from the District, Ministry of Health, Liquor Control and Licensing Branch and other relevant or applicable licensing or regulatory agencies.

### **Guidelines**

- 4. The following Guidelines, as determined by the General Manager, may be established as conditions of a Sidewalk Cafe Permit:
  - (a) The design, materials and colours of all sidewalk cafés and accessories must compliment the architectural style and colours of the façade containing the appurtenant business premises.
  - (b) Amenities within the Licence Area must be of good quality materials and must retain their visual appeal through regular maintenance or replacement.
  - (c) Preferred materials for sidewalk cafés are those that have durability and will retain a high visual quality from year to year. Structural materials must be repaired or replaced at the direction of the General Manager.

### **PART 3: SIDEWALK SALES**

- 5. The following specifications apply to all sidewalk sales areas as conditions and requirements of a Sidewalk Sales Permit:
  - a. The use of a sidewalk for the purpose of a sidewalk sales area shall be limited to the placement of display apparatus upon which products are displayed or alternatively

products may be placed directly upon the sidewalk surface or a combination thereof.

- b. The proposed area for a sidewalk sales area shall be limited to that side of the sidewalk that is closest to the appurtenant business premises and shall not occupy more than 1.8 meters (6 feet) of sidewalk width or leave less than 1.5 meters (5 feet) of clear, unobstructed sidewalk for pedestrian use ("Licence Area").
- c. Products being displayed in a Licence Area must be of an arrangement such that they do not pose a hazard to pedestrians.
- d. A sidewalk sales area shall not block or restrict any normal access to the doorway(s) of the business or accesses to neighbouring properties.
- e. A sidewalk sales area shall not extend onto the sidewalk in front of an adjacent premises or lot without specific written permission from the General Manager and complying with any conditions the General Manager considers to be reasonable and necessary in the circumstances.
- f. Any chairs used by vending staff must be kept within the Licence Area.
- g. Any umbrellas used in conjunction with a sidewalk sales area must be located within the Licence Area; must be securely affixed; and must allow for a clear height under the umbrella(s) of at least 2.1 meters (7-feet).
- h. A sidewalk sales area may operate on any and all days within the term of the Licence Agreement, except on days or times where a District sanctioned event or other District Permit restricts the use of the public sidewalk and or roadway directly adjacent to the Licence Area. Such District sanctioned events may include, but are not limited to parades, festivals, sporting or cultural events, memorial services, road closures or maintenance or repairs works.
- i. All products, display apparatus, chairs and umbrellas must be removed from the Licence Area during times when the business holding the Licence is not open to the public.
- j. The Licensee shall be responsible for ensuring that the sidewalk adjacent to the Licence Area is kept in a clean, well maintained state.
- k. The maximum height of a display apparatus and products within the Licence Area must not be greater than 1.8 meters (6 feet), measured from the surface of the sidewalk.
- l. Any display apparatus within the Licence Area must be in good repair and free from any defects that may be hazardous to pedestrians. Any display apparatus must be self-supporting, sturdy and securely anchored. Displays that lean on the exterior façade of a building are not permitted.

## Guidelines

6. The following Guidelines, as determined by the General Manager, may be established as conditions of a Sidewalk Sales Permit:
  - (a) The design, materials and colours of all display apparatus must compliment the architectural style and colours of the façade containing the appurtenant business premises.
  - (b) Display apparatus must be constructed of good quality materials such as wood, metal, fabrics and resins and must retain their visual appeal through regular maintenance or replacement.

## Schedule F

### LICENCE AGREEMENT

THIS AGREEMENT DATED the \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_ is

BETWEEN:

**THE DISTRICT OF SQUAMISH**, a municipality under the *Community Charter* of British Columbia and having its offices located at # 37955 Second Avenue, Squamish, British Columbia, V8B 0A3

(the “**District**”)

AND:

(the “**Applicant**”)

WHEREAS:

- A. The Applicant has requested permission from the District to encroach upon, occupy and use a portion of a highway in the District for the purpose of < > [INSERT PURPOSE FOR ENCROACHMENT];
- B. The District has agreed to grant the Applicant’s request on the terms and conditions of this Agreement and subject to compliance with the District’s bylaws.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the terms, promises and covenants herein contained, and the sum of one dollar (\$1.00) now paid by the Applicant to the District, the receipt of which is hereby acknowledged by the District, the parties agree as follows:

1. **Permission to Occupy** - The District hereby grants to the Applicant permission to use, encroach upon and occupy that approximate < > sq. m. portion of [INSERT DESCRIPTION OF STREET OR HIGHWAY] in the District which is shown outlined in heavy black outline on the sketch attached as Appendix “I” to this Agreement (the “**Licence Area**”) for the sole purpose of < > [INSERT PURPOSE FOR USE, OCCUPATION or ENCROACHMENT].
2. **Use of the Licence Area** - The Applicant must use the Licence Area only for the purposes specified in Section 1 of this Agreement and in strict compliance with:
  - (a) the terms and conditions of this Agreement;
  - (b) any conditions imposed on a permit issued under the *Squamish Traffic Bylaw*, No. 2220 2012, (“**Traffic Bylaw**”);

- (c) the specifications and guidelines set out in Schedule E of the Traffic Bylaw; and
- (d) all other applicable bylaws of the District, and any applicable statutes and regulations of the federal and provincial governments.
3. **Term** - This Agreement shall be for a period of < > days or years, from [date... to ...date...] unless terminated sooner pursuant to the terms of this Agreement (the **"Term"**) and is renewable in accordance with the requirements of the *Traffic Bylaw*.
  4. **Permit Fee** – The Applicant agrees to pay to the District, upon execution of this Agreement and on every anniversary of that date until the Term of this Agreement expires or is terminated, an permit fee in accordance with the requirements of the *Traffic Bylaw* and the District's *Fees and Charges Bylaw No. 2012, 2007*, in the amount of \$0.
  5. **Business Licence** – The Applicant shall be in possession of a valid and existing business Licence from the District.
  6. **Amenities** – The Applicant may construct, install or deposit on and within the Licence Area in accordance with the specifications and guidelines set out in Schedule E of the Traffic Bylaw in the locations, if any, shown on the sketch in Appendix 1 those works, fixtures, improvements, furniture, equipment, chattels, personal property and materials listed and described in Appendix 2 of this Agreement (collectively, the **"Amenities"**). The Applicant shall not construct, install or deposit any other Amenities on or within the Licence Area except those listed and described in Appendix 2 or make any structural repairs to the Amenities without the prior written approval of the General Manager of Engineering and Parks for the District (the **"General Manager"**).
  7. **Repair and Maintenance** - The Applicant shall at all times keep and maintain the Licence Area and the Amenities in good and sufficient repair to the satisfaction of the District. If the Applicant fails to keep the Licence Area or the Amenities in good repair to the satisfaction of the District, the District 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 such repairs to the District forthwith on demand.
  8. **Security Deposit** – The Applicant shall, upon execution of this Agreement and in accordance with the requirements of the Traffic Bylaw, deposit with the District, security in the form of cash or an automatically renewing, irrevocable letter of credit in the amount of \$0 (the **"Security Deposit"**). Where the Applicant fails to keep the Amenities in good repair or remove the Amenities and restore the Licence Area in accordance with the requirements of this Agreement, the District may draw on the Security Deposit to pay the costs of the District maintaining or removing the Amenities and restoring the Licence Area and shall return any unused balance to the Applicant. If the District's costs exceed the amount of the Security Deposit, the Applicant shall pay the District the shortfall immediately upon receipt of the District's invoice.
  9. **Relocation** – If, in the opinion of the General Manager, all or a portion of the Licence Area is required for the installation of municipal utilities or other municipal purposes, the Applicant shall, forthwith upon receipt of notice from the General Manager, relocate the Licence Area or all or part of the Amenities, as specified by the General Manager, all at the sole expense of the Applicant. If relocation of the Licence Area or Amenities is not possible, Section 19 (*Termination for Default*) shall apply.

- 10. District May Enter** - The District by its authorized agents or employees shall have the right at any and all times to enter into and upon the Licence Area in the case of emergency or for the purpose of monitoring compliance with this Agreement, a permit and other District bylaws, for constructing, maintaining and inspecting or removing any public works or utilities or for repairing or removing the Amenities and restoring the Licence Area in accordance with this Agreement.
- 11. Indemnification** - The Applicant shall indemnify and save harmless the District and its elected officials, officers, employees and agents from and against all actions, proceedings, claims and demands of any kind by any person arising out of or in any way connected with:
- (a) the permission to encroach upon, occupy or use the Licence Area granted by this Agreement;
  - (b) the existence and use of the Licence Area; or
  - (c) the construction, maintenance, existence, use or removal of the Amenities;

including, 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 District's bylaws or any one of them or with any provision of this Agreement, and without limiting the foregoing, the Applicant shall reimburse the District for all damages and expenses caused or contributed to by the negligence or other default of the Applicant in respect of anything done or not done pursuant or ostensibly pursuant to this Agreement including, without limitation, the construction, operation, maintenance and repair of the Licence Area or the Amenities, except where caused by the District's negligence.

- 12. Notice** - Any notice required or allowed to be given under this Agreement shall be deemed to have been given to the party to whom it is addressed if it is mailed in British Columbia, in a prepaid envelope addressed to the address of the party as set out on page one (1) of this Agreement and any notice, demand or request so given shall be deemed to have been received and given five (5) days after the date of mailing. Alternatively, any notice under this Agreement may be delivered by hand and shall be deemed to be received upon the day of delivery. In the case of notices to the District, notices must be to the attention of the General Manager. Any notice to the Applicant contemplated by this Agreement may be given to the Applicant at the address of the business premises to which the Licence Area is appurtenant.
- 13. Enurement** - This Agreement shall enure to the benefit of and be binding on the parties and their respective successors and permitted assigns.
- 14. Insurance** - The Applicant shall maintain at its sole expense commercial general liability insurance providing coverage for acts or omissions by the Applicant, its employees and agents in the amount of not less than \$2 million per occurrence, all inclusive, and the insurance policy shall:
- a) name the District as an additional insured;
  - b) be issued by an insurance company entitled under provincial law to carry on business in British Columbia;
  - c) state that the policy;

- i) applies to each insured in the same manner and to the same extent as if a separate policy of insurance had been issued to each insured; and,
- ii) cannot be cancelled, lapsed or materially changed without thirty (30) days written notice to the District;
- d) be maintained for a period ending twelve months after this Agreement is terminated; and,
- e) not include any deductible amount greater than \$5,000 per occurrence.

**15. Copies of Policies** - The Applicant shall provide the General Manager with a copy of the required policy or a certificate of insurance upon execution of this agreement and shall thereafter provide copies or certificates of any annual renewals and any amendment to the policy.

**16. Environmental**

**16.1 Definitions**

In this Agreement:

**“Contaminants”** means any explosives, radioactive materials, asbestos materials, urea formaldehyde, chlorobiphenyls, hydrocarbon contaminants, underground tanks, pollutants, contaminants, hazardous, corrosive or toxic substances, special waste or waste of any kind or any other substance the storage, manufacture, disposal, treatment, generation, use, transport, remediation or release into the environment of which is prohibited, controlled, regulated or Licenced under Environmental Laws;

**“Environmental Laws”** means any and all statutes, laws, regulations, orders, bylaws, permits and other lawful requirements of any federal, provincial, municipal or other governmental authority having jurisdiction over the Licence Area or associated highway now or hereafter in force with respect in any way to the environment, health or occupational health and safety, including all applicable guidelines and standards with respect to the foregoing as adopted by any of those governmental authorities from time to time.

**16.2 Contaminants Prohibited** - The Applicant will not use or bring onto or allow to be used or brought onto the Licence Area any Contaminants or other hazardous materials, nor shall the Applicant perform any operations on the Licence Area that may result in the deposit or spilling of such Contaminants. The Applicant further agrees that it will comply with every Environmental Law applicable to the Licence Area.

**16.3 Indemnification** - Regardless of whether liability is based upon tort, contract, strict liability, warranty, any Environmental Laws or any other statute, law or order, or any other basis of liability, the Applicant will indemnify, defend and hold the District harmless from and against any claims relating to the physical or environmental condition of the Licence Area, including costs of cleaning up Contaminants and including all current and future liabilities and obligations to third parties which had their genesis from and after the commencement date of this Agreement, except to the extent it is proven that such condition was caused by or contributed to by the District prior to the commencement date.



- 17. Survival of Terms** - The indemnification, release and insurance obligations of the Applicant under this Agreement shall survive any termination of this Agreement in relation to any event first arising or commencing on or before the date of termination of this Agreement.
- 18. Early Termination** - The Applicant understands and agrees that the District may at any time, in its sole discretion and for any reason whatsoever, withdraw the rights it has granted herein to the Applicant and terminate this Agreement by giving \_\_\_\_\_ (\_\_) days notice to the Applicant in writing. In the event of such withdrawal, for any cause or reason whatsoever, the Applicant shall, at its own expense, within such time as may be specified by the District, remove the Amenities from the Licence Area and restore the Licence Area to its original state to the satisfaction of the General Manager.
- 19. Termination for Default** - If the Applicant is in default of, or fails to comply with:
- (a) any of the provisions of this Agreement;
  - (b) the requirements of the *Traffic Bylaw*;
  - (c) the conditions, if any, imposed on a permit issued under the *Traffic Bylaw*; or
  - (d) any other applicable District bylaw or federal or provincial statute or regulation;
- and such default or non-compliance is not remedied to the satisfaction of the General Manager within 5 business days after written notice to the Applicant by the District, the District may, on further written notice to the Applicant, forthwith terminate this Agreement and revoke the permit issued to the Applicant, and the Applicant shall forthwith vacate the Licence Area, remove the Amenities and restore the Licence Area to its original state, all at the cost of the Applicant and to the satisfaction of the General Manager.
- 20. Renewal** – To annually renew this Agreement, the Applicant must pay the applicable fees, provide proof of a valid and existing business Licence and provide proof of insurance. The District may renew the permit provided the following conditions are met by the Applicant:
- a) The design, location and purpose of the Licence area remains the same as the previous year;
  - b) The Applicant has complied with, and is not in default of, the terms and conditions of the Licence agreement;
  - c) The Amenities contained within the Licence area have been repaired and maintained in a good state of repair, and
  - d) The General Manager has determined that the use of the Licence area in the previous year created no health or safety hazards or nuisances and did not unduly disturb or inconvenience the public.
- 21. Removal of Amenities** - If the Applicant fails to clear the Licence Area as required under this Agreement, the District and its agents may remove and store all Amenities and all other things on the Licence Area. The cost of such removal and storage will be a debt due and owing to the District by the Applicant payable upon receipt by the Applicant of the District's invoice.
- 22. Disposal of Amenities** – The Applicant acknowledges and agrees that any Amenities removed and stored by the District under Section 21, and not claimed within 60 days of removal, shall become the property of the District, and may be sold and the proceeds retained by the District.

23. **Release** - The Applicant releases and forever discharges the District and its employees from all manner of claims of any nature whatsoever which may arise by reason of or in connection with the performance or non-performance of this Agreement by the District.
24. **Remedies** - Notwithstanding the other remedies provided in this Agreement, the District shall retain the right to proceed with the enforcement of any security or indemnity provided in satisfaction of any claim, loss or expense of any kind whatsoever arising under this Agreement or from the Licence granted by this Agreement.
25. **Compensation** - Notwithstanding any provision of the Agreement, the Applicant shall not be entitled to compensation for injurious affection or disturbance resulting in any way from the removal of the Amenities from the Licence Area or the revocation or cancellation of the permit for the Licence Area or the termination of this Agreement for any reason and, without limitation, shall not be entitled to business losses, loss of profit, loss of market value, relocation costs or other consequential loss by reason of the removal of the Amenities from the Licence Area or by reason of the revocation or cancellation of the permit for the Licence Area or the termination of this Agreement.
26. **Limitation** - The right to use the Licence Area granted by a permit and this Agreement is subject at all times to the right of the District and any public utility, and the employees and contractors of either of them, to enter the Licence Area without notice or reimbursement to the Applicant for the purpose of installation, maintenance and repair of pavement, curb and gutter, sidewalks, pipes, cables, conduits, wires, poles or any other service or installation permitted on a highway.
27. **Compliance with Other Laws** - Nothing in this Agreement exempts the Applicant from complying with all applicable laws, including all municipal bylaws, or from obtaining all required permits and Licences relating to the use of the Licence Area or the parent business associated with the Licence Area.
28. **Interest in Land** - This Agreement does not give the Applicant any legal or equitable interest of any kind in the Licence Area.
29. **Further Assurances** - The parties shall execute and do all such further deeds, acts, things, and assurances as may be reasonably required to carry out the intent of this Agreement.
30. **Waiver** - Waiver of any default by either party shall not be deemed to be a waiver of any subsequent default.
31. **Interpretation** - Whenever the singular or masculine is used in this Agreement, the same is deemed to include the plural or feminine or the body politic or corporate as the context requires.
32. **References** - Every reference to each party is deemed to include the heirs, executors, administrators, permitted assigns, employees, servants, agents, contractors, officers, directors and invitees of such party, where the context so permits or requires.
33. **Severance** - If any portion of this Agreement is held invalid by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of this Agreement.

- 34. **Sale or Alienation of Land** - The Applicant shall not transfer or assign this Agreement in whole or in part, and shall not permit or suffer any other person to occupy the whole or any part of the Licence Area, without the written consent of the District. In the case of a sidewalk cafe or sidewalk sales, this Agreement shall terminate and the permit under the Traffic Bylaw shall lapse upon any sale, transfer or alienation of the Applicant’s interest in or to the business premises appurtenant to the sidewalk cafe or sidewalk sales operation on the Licence Area, such termination to be effective as of the date of sale, transfer or alienation, and all provisions relating to the removal of the Amenities and restoration of the Licence Area shall apply, unless the transferee of the business premises enters into a satisfactory agreement with the District prior to the transfer date.
  
- 35. **Entire Agreement** - The provisions herein contained constitute the entire agreement between the parties and supersede all previous communications, representations and agreements, whether verbal or written between the parties with respect to the subject matter hereof.
  
- 36. **Time of Essence** - Time is of the essence of this Agreement.
  
- 37. **Governing Law** - This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia.

IN WITNESS WHEREOF the parties have hereunto executed this Agreement on the day and year first above written.

**DISTRICT OF SQUAMISH** by its  
Authorized signatories:

\_\_\_\_\_  
General Manager of Development Services and Public Works  
Linda Glenday

\_\_\_\_\_ by its  
Authorized signatories:

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

Schedule F

**Appendix 1  
to LICENCE AGREEMENT**

**Licence Area**

Schedule F

**Appendix 2  
to LICENCE AGREEMENT**

**Amenities**