

COUNCIL POLICY # C-01-12

SEASONAL OUTDOOR PATIOS ON PUBLIC LANDS POLICY AND GUIDLINES

THE PURPOSE OF THIS POLICY IS TO:

Regulate the safe and appropriate use of Public Lands for seasonal outdoor Patio seating areas in appropriate locations in the Town of Drumheller, and to outline the general application criteria for a permit for such patios.

Definitions:

License of Occupation: The mechanism of authorization for the legal establishment of occupation of Public Lands with outdoor patios within the License area.

Public Lands: Public sidewalks, road rights of way, and on-street parking spaces.

Seasonal Outdoor Patio ('Patio Area'): A directly adjacent spatial accessory use to a business establishment located on the main floor of a building occupying portions of Public Lands, typically for the purpose of serving food and beverages in an outdoor setting to seated patrons.

License of Occupation for Seasonal Outdoor Patio:

1. Outdoor patio seating areas are subject to a License of Occupation on Public Lands in the Town of Drumheller. Patios and/or patio areas may be constructed on the Public Lands, immediately in front of a private commercial business. Businesses must apply for a License of Occupation for Seasonal Outdoor Patios. Any license of Occupation shall comply with the requirements of this policy, the Land Use Bylaw, and any other terms or conditions reasonably necessary for the safety, health, and welfare of people and the protection of people and property.
2. A License of Occupation requires municipal approval for the use of public lands and shall be issued on an annual basis, for the period between April 15th and October 31st of each year. Construction/set-up of patio areas must not commence until a License of Occupation has been issued.
3. Applicants must reapply to the Town for a new License of Occupation each year (First come first served basis). Applicants are fully responsible for the construction, removal, and storage of any structures associated with the License area.
4. If there is a change of ownership, the permit is void and the new owners must apply for a new permit or remove the sidewalk patio within 10 days.

Application for Seasonal Outdoor Patio Permit:

Submission requirements:

- A dimensional site plan (from from above with measurements noted) showing the patio designed in accordance with the regulation set out. The site plan must show:

- i. the entire front of the building, the location of the door, the curb and the distance between the curb and the building;
 - ii. proposed objects (tables and chairs) that will be placed on the patio
 - iii. all the objects on the sidewalk such as lamp standards, signs, parking meters, garbage bin, benches, trees (must be measured from the edge of the tree-well grate not the tree trunk.
- Application form
- Current business license
- Certificate of liability insurance

Application Procedure:

1. Submit the completed application form with a copy of the current business license and Certificate of Liability Insurance to the Town of Drumheller Development Officer. If the applicant is not the owner of the property, the applicant shall provide proof of authorization from the owner of the building containing the contiguous indoor restaurant that is requesting the outdoor patio.
2. The development officer will conduct a site inspection to determine if there is adequate space for the Seasonal Outdoor Patio in the location provided in consideration of acceptable pedestrian passageway remaining. This process may involve taking measurement to determine if there is adequate space for pedestrian clearance with regard to traffic movements and public safety measures.
3. Once the application is approved, the applicant must sign and return the enclosed Certificate of Liability Insurance form in order to receive the final approval of the permit.

Regulations:

1. Seasonal Outdoor Patios are only allowed at the discretion of the Town of Drumheller Municipal Planning Commission in accordance with the following regulations and standards:
2. The distance and orientation of the sidewalk patio in relation to surrounding development shall be considered to ensure negative effects do not occur with existing surrounding developments and land uses;
3. Must be adjacent to the business property frontage and shall not extend onto the frontage of abutting property owners.
4. Hours of operation are restricted to operate within the requirements of the Community Standards Bylaw (generally between 7am - 10pm). Operation of the Outdoor Patios must remain closed and cleaned between 10pm - 7am.
5. All patio barriers, furniture, and fixtures must have a consistent appearance and be:
 - a) Constructed of sturdy material;
 - b) Designed for stability;
 - c) Consistent design and appearance with street furniture in the immediate area;
 - d) Designed for easy removal.
6. All patio barriers, furniture, furnishings and fixtures must be removed from the sidewalk by October 31 of the given year.

7. The safety and day to day guidelines for uses on the Patio shall be addressed within the permit conditions, including but not limited to the following:
 - a) No appliances shall be kept or stored on the Patio
 - b) No snack/ beverage dispensing machine, soft drinks or food or drink of any kind may be kept or stored on the patio;
 - c) The patio is not to be used as a storage area of any kind, at any time;
 - d) The Patio is not to be used for the cooking of food unless otherwise permitted for temporary events.
8. The minimum pedestrian clearance shall be 1.5 meters (5ft) remaining after the patio is installed.
9. Installation of patio barrier may be required depending on the scale of the patio.

The patio barrier must be:

 - e) Constructed of sturdy material;
 - f) Designed for stability
 - g) Securely anchored to the sidewalk at corners and regular intervals and possibly fastened to the building;
 - h) Designed for easy removal.
10. The town retains the right to:
 - a) Require the immediate dismantling of the sidewalk patio, at the applicant's expense, in order to gain access to the sidewalk. Reinstallation of the sidewalk patio is also at the applicant's expense
 - b) Suspend or revoke the sidewalk patio permit if, at any time, it is found that violations of the regulations have occurred or that the use of the sidewalk patio is creating conflicts that the Town deems unacceptable. Dismantling of the side
 - c) walk patio is at the applicant's expense.
11. Parking stalls adjacent to the patio will be limited to motorcycle parking where on-street parking areas are affected by sidewalk patio locations.

Liability and Indemnity

The Licensee agrees that it will indemnify and save harmless the Town of Drumheller and its officials, officers, employees, servants and agents from all costs, losses, damages, compensation and expenses (including Counsel fees) of any nature whatsoever suffered or incurred by the Town and sustained or caused by the Licensee's occupation or possession of the Premises, and from all claims, demands, suits and judgments against the Town and its officials officers, employees, servants and agents, or either of them, on account of or in respect of the Premises or of the occupation or possession or use thereof by the Licensee, its servants, agents, contractors, licensees or permits.

Insurance

The Licensee shall, without limiting its obligations or liabilities herein and at its own expense, provide and maintain the following insurance(s) with insurers in Alberta and in forms and amounts acceptable to the Town of Drumheller.

Comprehensive general liability in an amount not less than \$2,000,000.00 inclusive per occurrence against bodily injury and property damage. The Town of Drumheller and its officials, officers, employees, servants and agents are to be added as additional insured's under this policy (ies). Such insurance shall include, but not limited to:

- I. Products and Completed Operations Liability
- II. Owners and Contractor's Protective Liability
- III. Blanket Written Contractual Liability covering liability arising directly out of the performance of this agreement
- IV. Contingent Employer's Liability
- V. Personal Injury Liability
- VI. Cross-Liability or Severability of Interest
- VII. Employees as Additional Insured
- VIII. Broad-Form Property Damage
- IX. Deductible Clause not to exceed \$5,000.00

All the foregoing insurance shall be primary. Any insurance or self-insurance maintained by the Town of Drumheller shall be in excess of this insurance and shall not contribute to it.

Prior to the commencement of the agreement the Licensee shall provide the Town of Drumheller with evidence of all required insurance to be taken out in the form of a completed Town of Drumheller Certificate of Insurance. Similar evidence of renewals, extensions or replacement of said policies shall be forwarded to the Town of Drumheller at least 15 days prior to their renewal, extension or replacement. When requested by the Town of Drumheller, the Licensee shall provide a certified copy or the required policy(ies).

All required insurance shall be endorsed to provide the Town of Drumheller Licensing Department with 30 days notice of cancellation or material change.

I, _____ (Business Owner/Authorized Signatory), hereby acknowledge that the above information is correct.

Date: _____ Business Owner/ Authorized Signatory's Signature _____

Adopted by Council

Date: January 16, 2012



MAYOR



CHIEF ADMINISTRATIVE OFFICER