

# POLICY SIDEWALK SEATING



## Policy C7005-1

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<b>Adopted by Council:</b>	2022.03.28	<b>Responsibility:</b>	Planning and Development
<b>Council Resolution #:</b>	COU22-81	<b>Last Review Date:</b>	2022
<b>Modified by Resolution #:</b>		<b>Next Review Date:</b>	2026
<b>Replaces:</b>	C7005		

### 1.0 POLICY

The Town of Banff encourages the installation of comfortable, aesthetically pleasing sidewalk seating in the CD (Downtown) Land Use District to enhance the public realm and contribute to memorable national park experiences.

### 2.0 PURPOSE

The Street and Public Place Use Bylaw allows permits to be issued for installation of temporary sidewalk seating areas in the CD (Downtown) Land Use District. This policy establishes responsibilities, design standards and approval processes for the placement of restaurant seating on public sidewalks and streets.

### 3.0 SCOPE

This policy applies to sidewalk seating/cafés installed in public spaces and sidewalk right of ways within the CD (Downtown) Land Use District.

### 4.0 DEFINITIONS

- 4.1 **Abutting sidewalk seating** means a seating area which is located on a public sidewalk directly adjacent to a business frontage.
- 4.2 **Business frontage** means the façade of a business at grade along measured along the lineal distance of the front lot line abutting the public sidewalk including the accumulated width of windows, doorway, signage band and bulkheads.
- 4.3 **Light fixtures** or luminaire is an electrical device used to create artificial light by use of an electric lamp or battery source.
- 4.4 **Maintenance** refers to the preservation of a finishing's quality and appearance.
- 4.5 **Non-abutting sidewalk seating** means seating areas which are located on a public roadway where patrons and service staff are required to cross a pedestrian zone to access dedicated seating.
- 4.6 **Outdoor heating device** means an appliance for heating outdoor air.

- 4.7 **Pedestrian zone** is the area dedicated exclusively to the movement of pedestrians on a public sidewalk. **Perimeter structure** means a partial wall, screen or other landscape barrier installed along the front, side and/or rear of a licenced sidewalk seating area. This perimeter structure shall be durable, may incorporate seating elements, and must meet the rustic design requirement of the policy.
- 4.8 **Permit holder** means the holder of a valid street and public place use permit for the installation of sidewalk seating/café issued pursuant to the provisions of the Street and Public Place Use Bylaw.
- 4.9 **Rustic design** means high quality furniture which adheres to Banff’s design tradition, the direction in the Banff Design Guidelines and the setting of the townsite within a National Park. In order to conform to the rustic design requirement, natural finishes must be incorporated (i.e. wood or metal furniture, a natural perimeter structure, natural landscaping), be durable (fabricated to a commercial or hospitality standard), be weather resistant, be neutral in colour, and be constructed of non-reflective materials.
- 4.10 **Sidewalk furnishings** means all furniture to be located within the sidewalk seating area. This includes tables, perimeter structures, posts, benches, umbrellas, floor coverings, landscaping planters, blankets, pillows and art.
- 4.11 **Sidewalk seating area** means a patio seating dedicated for the use of an eating and drinking establishment or grocery store containing tables, umbrellas, posts, benches, floor coverings, art or landscape planters for the use of the establishment’s patrons. A sidewalk seating area will be considered one of the following three sidewalk seating area types:
- **“Counter Service”** means a seating area where patrons must access an interior counter to obtain food and/or beverages.
  - **“Table Service”** means a sidewalk seating area where patrons are served food and non-alcoholic beverages at a table by staff. Table service seating areas are not licenced by the Alberta Gaming, Liquor and Cannabis (AGLC) for the consumption of alcohol.
  - **“Full Service”** means a sidewalk seating area where patrons are served food, beverages, and alcoholic beverages at a table by staff. Full service seating areas are licenced by the Alberta Gaming, Liquor and Cannabis (AGLC) for the consumption of alcohol.
- 4.12 **Sidewalk solicitation** means the act of asking, selling, giving or trying to obtain something from someone on the public sidewalk. This includes podiums with restaurant menus, stands or lecterns attended by restaurant staff and the distribution of samples or beverages by restaurant or general grocery staff.

- 4.13 **Signage** means any structure, fixture, logo, symbol, pictorial representation, emblem, mural, or banner which is visible from any street or lane which directs attention to a product, service, place, activity, person, institution or business.
- 4.14 **Woonerff** is a living street in which pedestrians and cyclists have priority over motorists. Techniques include shared space, traffic calming and lower speed limits.

## 5.0 RESPONSIBILITIES

- 5.1 Council is responsible for approving this policy and any amendments thereto.
- 5.2 The Director, Planning and Development or designate is responsible and may delegate authority to:
- a) Ensure proposed sidewalk seating is in compliance with the provisions of this policy, conditions of approval and any applicable Town of Banff bylaws, standards and guidelines,
  - b) Approve or refuse sidewalk seating applications,
  - c) Inspect sidewalk seating areas for conformance with approved plans,
  - d) Carry out enforcement procedures as provided in this policy,
  - e) Proceed with enforcement action in accordance with procedures outlined for sidewalk seating in the Streets and Public Places Bylaw; and,
  - f) Implement this policy and recommend any amendments.
- 5.3 The Municipal Enforcement Manager or designate is responsible and may delegate authority to issue a Notice of Offence and proceed with enforcement action in accordance with procedures outlined within the Streets and Public Place Use Bylaw.
- 5.4 The permit holder is responsible for ensuring:
- a) all the information in the application is accurate and that the sidewalk seating area is installed according to approved plans,
  - b) that necessary licenses from the Alberta Gaming, Liquor and Cannabis are in place to serve alcohol,
  - c) furnishings are stored indoors when the sidewalk seating area is not in operation,
  - d) all improvements necessary to the public space, both within and surrounding the sidewalk seating area are implemented;
  - e) that the sidewalk seating area is clean, swept and well maintained; and,
  - f) the conditions of approval of the Street and Public Place Use Permit including the provisions of the The Tobacco Reduction Act, 2008 are adhered to.

## 6.0 SEATING AREA STANDARDS

6.1 A sidewalk seating area shall be:

- a) authorized by a Street and Public Place Use Permit,
- b) permitted exclusively for eating and drinking establishments or grocery stores,
- c) installed in such a manner that the entire structure and its appurtenances can be removed,
- d) located on the public road or sidewalk along the business frontage. The following priorities will be considered by the Director of Planning and Development or designate when considering non-abutting sidewalk seating areas, and/or sidewalk seating areas outside of a business frontage:
  - i) Needs of the public realm;
  - ii) If a sidewalk seating area needs to be moved off frontage to accommodate a need of the public realm, the business frontage acts as a reference point for establishing the area of the sidewalk seating allocation;
  - iii) A sidewalk seating allocation may be up to 25% larger with the permission of the adjacent property owner whose frontage is proposed for use, and at the discretion of the Director of Planning and Development or designate. Where there is conflict between two establishments when requesting an additional 25% area, the smaller of the two establishments (as determined by internal gross floor area) shall be prioritized.
- e) Space will be allocated by the Director of Planning and Development or designate. Where the opportunity exists for multiple businesses within the same building to occupy the allocated space, we encourage those businesses, in conjunction with the property owner, to determine which business will occupy which space. provided in a manner that access to Fire Department connections, public utilities, and exits from adjacent buildings are respected,
- f) provided without signage, with the exception of menu boxes provided by the Town,
- g) cleaned and swept daily; and,
- h) installed without damage to public roads or sidewalks.

6.2 Non-abutting sidewalk seating areas may be considered using the following priority system:

- i) Priority 1 – at grade eating and drinking establishments
- ii) Priority 2 – second storey and basement eating and drinking establishments

6.3 Full service sidewalk seating areas that are non-abutting a business frontage shall include a perimeter structure between the sidewalk seating areas, adjacent pedestrian zones, sidewalk areas and/or adjacent vehicle travel lanes.

- 6.4 A perimeter structure and sidewalk seating furnishings may be stored on the public road during summer months at the discretion of the Director of Planning and Development, or designate with consideration for pedestrian movement, vandalism, and/or visual clutter.
- 6.5 Umbrellas must be a maximum of 2.5m in peak height and utilize a single support per umbrella.

## **7.0 PEDESTRIAN AREA STANDARDS**

- 7.1 Approved sidewalk seating/café areas shall leave the following unobstructed sidewalk width to accommodate pedestrian traffic:
  - a) a 2.0m pedestrian zone on Caribou Street and Wolf Street,
  - b) a 2.5m pedestrian zone on Bear Street, Lynx Street and Buffalo Street; and,
  - c) a 3.0m pedestrian zone on Banff Avenue, Marten Street and Elk Street.
- 7.2 Full service seating areas require a minimum 0.5m internal patron circulation around tables and chairs which is separate from pedestrian travel zone.

## **8.0 FURNISHING STANDARDS**

- 8.1 Furnishings for sidewalk seating areas shall:
  - a) adhere to the rustic design standard as defined,
  - b) allow for comfortable internal patron circulation,
  - c) be stored indoors when the sidewalk seating is not in operation, unless permitted by the development officer,
  - d) not obscure pedestrian or patron circulation,
  - e) be presentable and well-maintained,
  - f) be manufactured from fire retardant material,
  - g) be secured to ensure that they can withstand the effects of wind; and,
  - h) be uniform in style and design.

## **9.0 HOURS OF OPERATION**

- 9.1 Sidewalk seating may:
  - a) operate year round, weather permitting,
  - b) be open between the hours of 7am to 10pm; and,
  - c) project noise within the parameters established by the Community Standards Bylaw.

## **10.0 INSURANCE**

- 10.1 The permit holder is required to obtain and carry valid comprehensive general liability insurance which includes the following:
- a) Provide a loss payable clause in the interest of the Town of Banff & Her Majesty the Queen in Right of Canada as represented by Parks Canada on the policy,
  - b) State the period covered by the insurance policy i.e. commencement date and expiration date of policy,
  - c) Be for a minimum amount of \$5,000,000 in respect of any single occurrence,
  - d) Indemnify the Town of Banff against all claims of any kind arising from any negligent act either by the permit holder or the permit holder's agents; and,
  - e) Be in a form and with an insurer to the satisfaction of the Town of Banff.
- 10.2 The permit holder is required to notify the Town of Banff of any material change or cancellation of their general liability insurance within 15 days of this change.

## **11.0 ENFORCEMENT**

- 11.1 The Director, Planning and Development or designate will conduct pro-active enforcement in the following manner:
- a) Document instances of non-compliance and require corrective action by the permit holder,
  - b) Issue one (1) written warning to the permit holder; and,
  - c) In the event of continued non-compliance proceed to revoke the Sidewalk Seating Permit for the remainder of the year without refund.

## **12.0 APPLICATION**

- 12.1 The following are required in conjunction with an application for sidewalk seating:
- a) a completed application form with authorization from the property owner,
  - b) a sidewalk seating plan with a minimum scale of 1:100 metric including public fixtures surrounding the seating area,
  - c) an insurance receipt demonstrating general liability coverage in accordance with the requirements of this policy,
  - d) photographs and/or product specifications for all furniture to be located on the public street,
  - e) the number of tables, chairs to form part of the sidewalk seating area,
  - f) the level of service provided in sidewalk seating area; and,
  - g) payment for sidewalk seating in accordance with the Town of Banff Fees and Charges Bylaw.

## 13.0 REVIEW AND APPROVAL

- 13.1 The Director of Planning and Development or designate will issue a Street and Public Place Use Permit for temporary seating. A development officer will authorize the installation of sidewalk seating within designated area.
- 13.2 An application for sidewalk seating area will not be processed until all the required application documents are received.
- 13.3 The Director of Planning and Development or designate may refer the application to any other department, agency or official whose consideration the manager deems essential to a full and complete an assessment.
- 13.4 A Streets and Public Space Permit must be approved by the Planning and Development Department before sidewalk seating is installed.
- 13.5 A sidewalk seating area will be refused if:
  - a) the application is deemed incomplete,
  - b) the sidewalk seating area extends into the required pedestrian zones,
  - c) the sidewalk seating does not accommodate adequate internal circulation spaces,
  - d) the corresponding business does not have a commercial at grade frontage,
  - e) the sidewalk seating area contains outdoor heating devices,
  - f) the furniture provided is in poor condition; and,
  - g) the proposed furniture is for residential use.
- 13.6 In the event that a sidewalk seating application is refused, the Director, Planning and Development of designate, will provide a written response explaining the shortcomings of the application.
- 13.7 The principal establishment for each approved sidewalk seating area shall have a valid Town of Banff Resident Business License.
- 13.8 Any changes to approved sidewalk seating areas including: changes to furniture, addition of umbrellas, addition or changes to the perimeter structures, addition of graphics will require a new application.
- 13.9 The Town of Banff and public utility agencies retain the right of entry to the approved sidewalk seating area.
- 13.10 Permits are valid for a period of one year, at the end of which time permit holders may re-apply for their temporary sidewalk seating. When considering any reapplication for a permit, the Director of Planning and Development or designate will use the same process and consider the same criteria as that used in an application for a new permit.

13.11 Issuance of a sidewalk seating permit as authorized under the Streets and Public Place Use Bylaw shall not relieve the landowner or applicant of the responsibility for securing other permits or approvals required by the Town of Banff Fire Department, Parks Canada, Alberta Health Services, or any other government agency.

#### **14.0 RELATED DOCUMENTS**

Street and Public Place Use Bylaw  
Fees and Charges Bylaw  
Land Use Bylaw  
Community Standards Bylaw

This policy shall be in effect on the date it is approved by resolution of Council.

On Original

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Corrie DiManno  
Mayor

On Original

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Kelly Gibson  
Town Manager