

# SIDEWALK SEATING/CAFÉ



## Policy C109

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### 1.0 POLICY

The Town of Banff encourages the installation of comfortable, aesthetically pleasing temporary sidewalk seating areas in the public right of ways in the CD (Downtown) Land Use District to enhance the use of public space and improve visitor experience within the town.

### 2.0 PURPOSE

Street and Public Place Use Bylaw 124 allows permits to be issued for installation of temporary sidewalk seating areas in the CD (Downtown) Land Use District. This policy establishes design standards and an approval process for the development and operation of sidewalk seating/café areas.

### 3.0 SCOPE

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

### 4.0 RESPONSIBILITIES

- 4.1 The Manager of Planning Development or designate is responsible for reviewing and approving Street and Public Place Use Permit applications for temporary sidewalk seating/café.
- 4.2 A Town of Banff Development Officer is responsible for inspecting the installation of temporary sidewalk seating/café to ensure it complies with the provisions of this policy and any applicable Town of Banff bylaws.

### 5.0 PERMIT APPROVAL

- 5.1 Only eating and drinking establishments and general retail stores whose primary function is the sale of groceries, beverages or baked goods may apply for a sidewalk seating permit.
- 5.2 The Town of Banff Planning and Development Department will issue *Street and Public Place Use Permits* (permits) for temporary sidewalk seating/café. A development officer will authorize the installation of sidewalk seating/café within a designated area with specified furniture and layout for a specific time period.
- 5.3 An application for a permit for temporary sidewalk seating shall not be processed until the applicant has provided all required documents and fees as set out in Appendix 1.
- 5.4 A permit must be approved by the Planning and Development Department before sidewalk seating is installed.
- 5.5 Permits are valid for a period of two years, at the end of which time permit holders may re-apply for their temporary sidewalk seating. When considering any reapplication for a permit, the Manager 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.
- 5.6 If an application does not meet the requirements of this policy, the Development Officer will refuse the permit application. In this case the Development Officer will provide a letter explaining the shortcomings of the application.

- 5.7 A permit holder who intends to serve alcohol inside any temporary sidewalk seating areas requires a separate licence under the Alberta Gaming and Liquor Commission.
- 5.8 The Street and Public Place Permit shall address liability; maintenance and trash removal concerns, and set forth the fair market value rental cost for leasing of the public space.

## 6.0 DESIGN STANDARDS

### 6.1 Location of Sidewalk Seating/Café Area

- a) Each approved sidewalk seating/café area shall directly abut and be appurtenant or contiguous to the business that is applying so patrons and servers do not cross the flow of pedestrian traffic on the sidewalk. The patio may not extend beyond the frontage face of the restaurant. (See Appendix 2: *Example Location and Alignment Schematics for Sidewalk Seating*).
- b) Each approved sidewalk seating/café area shall leave sufficient unobstructed sidewalk width for the comfortable passage of pedestrians. This will be a minimum of 2.0m to 2.5m or more in areas of high pedestrian volumes at the discretion of the Town of Banff. Each approved sidewalk patio shall maintain access to Fire Department connections, public utilities, and exits from adjacent buildings.
- c) Seating configurations that involve servers and/or customers with plates and glassware having to descend or ascend shared access stairs may be approved at the discretion of the approving authority.

### 6.2 Furniture Specifications

- a) All furniture items, including umbrellas, will be subject to approval by the Town of Banff. Detailed specifications must form part of any application. Applicants are encouraged to select furniture that is compatible with the design and quality of the style range included as examples to this policy. (See Appendix 3: *Furniture Style Guide*)

### 6.3 Furniture Style

- a) Outdoor furniture should make a positive contribution to the street environment. A furniture style that is practical and elegant and integrates well with the surrounding environment is encouraged. Favorable consideration may also be given to well designed, creative, and individual alternatives, provided that they meet the following criteria:

- **Structure**

The furniture should be strong, durable, waterproof and weather resistant, designed for commercial outdoor use. The design must not contain parts that are likely to cause damage to the pavement. The furniture must fold or stack for storage, and be readily removed and stored within the associated indoor premises during non business hours.

- **Colour**

Furniture colour schemes must form part of any application. Sidewalk furniture should be unobtrusive in nature, complementing the culture, character and significance of the street in style, appearance, materials, finishes and colours. Surfaces such as tabletops must be non-reflective.

- **Tables and Chairs**

- ❑ Furniture that is constructed solely of plastic is unacceptable.
- ❑ Tables and chairs must be of an outdoor style. Indoor-style furniture is considered to be inappropriate for use in sidewalk seating/café areas.
- ❑ Tables and chairs should be of uniform style and design.
- ❑ Tables and chairs should be portable yet sturdy and windproof.
- ❑ The number of tables and chairs placed within a sidewalk area must allow unobstructed access and circulation for patrons and staff.

- **Shade Umbrellas**

Umbrellas are appropriate for providing shade and shelter, however, all umbrellas must meet the following criteria and:

- ❑ Be secured to ensure that they can withstand the effects of wind.
- ❑ Be removed or closed in extremely windy conditions and be removed when the outdoor seating area is not in use.
- ❑ Not be attached to railings
- ❑ Not encroach on, or interfere with pedestrian movement, and must be at least 2.0m in height
- ❑ Be manufactured from fire retardant material.
- ❑ Be maintained in sound and aesthetically acceptable condition to the satisfaction of the Town of Banff.
- ❑ Not feature any advertising or signage of any kind
- ❑ Be market style (not beach umbrellas) and of muted or neutral color.

- **Canopies and Awnings**

Canopies and Awnings must conform to the regulations outlined in Section 8.7 of Landuse Bylaw 31-3 and Section 5.1(i) of the *Town of Banff Design Guidelines*.

#### 6.4 **Layout and Positioning**

The permit holder is responsible for ensuring that all furniture remains within the approved sidewalk seating area and that pedestrian clearances and safety requirements are maintained at all times. No fixed tables or chairs may be used.

#### 6.5 **Lighting**

Electrical lighting is not permitted within the sidewalk seating area.

#### 6.6 **Barriers**

Sidewalk seating should enrich the pedestrian experience and public life of the street. It is therefore important that it presents an open, inviting image and area easily accessible from the public right of way. Any type of enclosure, including barriers or screens will be appropriate only where sufficient space permits. Barriers must not become a physical and or psychological obstruction within the public domain. They must not have a detrimental impact on the use, enjoyment and safety of pedestrians and patrons.

#### 6.7 **Heating Devices**

The use of heating devices is not permitted within the sidewalk seating area.

### 6.8 Signage and Advertising

- a) No form of advertising or display material is permitted in a public place, including the sidewalk seating area, unless prior approval from the Town of Banff Planning and Development Department has been obtained.

### 6.9 Limitations on Use

- a) No portion of a sidewalk seating/café area may be used for any purpose other than seating, dining or circulation.
- b) No portion of a sidewalk seating/café area may be used for the storage of and sale of merchandise or objects other than those intended for seating, dining or circulation.
- c) The permit holder shall bear all financial responsibility for any and all improvements necessary to the public space, both within and surrounding the sidewalk seating area. At no time and for no reason shall public funds be expended for improvements designated to benefit the permit holder.
- d) Smoking is prohibited at all sidewalk seating/ cafe locations. The Tobacco Reduction Act, 2008 requires that managers or owners strictly enforce this requirement or be liable to fines.

### 6.10 Utility and Emergency Access

- a) The Town of Banff and public utility agencies retain the right of entry to the approved sidewalk seating area.
- b) Right of entry for emergency vehicle access must be provided.

## 7.0 OPERATION AND MANAGEMENT

### 7.1 Hours of Operation

- a) Sidewalk seating area may operate year round, weather permitting.
- b) Hours of operation are from 7am to 10pm.
- c) Sidewalk seating areas must conform to the noise regulations outlined in Sections 38-52 of the Town of Banff Community Standards Bylaw 260.

### 7.2 Business Licenses

The principal establishment for each approved sidewalk seating area shall have a valid Town of Banff Resident Business License.

### 7.3 Maintenance and Cleaning

All furniture must at all times be maintained in a physically sound and aesthetically acceptable condition to the satisfaction of the Manager of Planning and Development or designate. The permit holder is responsible for cleaning the approved seating area.

### 7.4 Waste Management

- a) Appropriate environmental management is an important issue for Banff National Park, the Town of Banff and the community. Waste management is the responsibility of all stakeholders including sidewalk seating permit holders. The Town of Banff requires that all waste must be stored in an approved receptacle in an approved enclosure (Waste Bylaw No.18-4) and that any permit holder must accept and demonstrate responsibility for the cleanliness of the area immediately adjacent to their premises.

- b) To ensure the Sidewalk seating area is maintained in a clean and hygienic state at all times and to reduce the impact of waste upon the environment, the following requirements will apply:
- The permit holder must uphold the cleanliness of the sidewalk seating area by ensuring that tables and chairs are kept clean and that litter is removed from in and around the seating area and disposed of within the commercial garbage provisions on site.
  - The permit holder must maintain a high standard of presentation for all sidewalk furniture and fittings by ensuring that furniture, barriers and or planters are clean, in good order and well presented.
  - All litter must be swept, collected and disposed of in an approved litter receptacle within the commercial garbage provisions on site.
  - Sidewalk seating debris must not be swept or allowed to enter into gutters, parking or traffic lanes, storm-water catch-basins or pedestrian walkways.
- 7.5 Furniture Storage**  
Outdoor furniture must be removed and stored away from all public areas outside the hours of business operation or when not in use.
- 7.6 Barriers**  
If alcohol is served, the Liquor and Gaming Commission requires the licensed area to be delineated with (1.0m) high barriers (minimum). The Town of Banff requires all boundaries of the approved seating area including areas not requiring a license to be appropriately marked.
- 7.7 Reinstatement of a Public Place**
- a) Every sidewalk seating area shall be temporary in nature and designed so that the entire structure and its appurtenances including but not limited to chairs, tables, fencing, bollards and planters can be easily removed during periods of non use.
  - b) Following the expiration, cancellation or termination of a street and public place use permit, all of the former permit holder's furniture must be removed from the public place within 24 hours from the expiry, cancellation or termination. Failure to remove the furniture within the specified period of time will result in the Town of Banff removing and disposing of the street furniture. No claim for payment or compensation from the Town of Banff shall be made for, or in respect of, such removal and disposal of sidewalk seating furniture. The restitution is the responsibility of the permit holder and the pavement must also be returned to its original condition at the cost of the permit holder.
- 7.8 Sidewalk Solicitation**
- a) The installation of podiums, stands or lecterns attended by restaurant host staff to receive customers and provide information to visitors must be contained within the existing commercial property area of that business. Podiums are not permitted on public land or within the pedestrian right of way, unless they form part of an approved sidewalk seating/ café area.
  - b) No food or beverage samples are to be provided from or around podiums, stands or lecterns that are attended by restaurant host staff.

## 8.0 RELATED DOCUMENTS

Street and Public Place Use Bylaw 124  
Land Use Bylaw 31-3  
Community Standards Bylaw 260  
Waste Bylaw 18-4

## 9.0 ATTACHMENTS

Appendix 1: Application Process  
Appendix 2: Example location and alignment schematics for sidewalk seating areas  
Appendix 3: Furniture Style Guide

### APPENDIX 1: Application Process

No person or business shall commence, or cause or allow to be commenced, or to carry on, or cause or allow to be carried on, sidewalk seating unless a permit has been issued by the Town of Banff.

A completed development permit application form signed by the owner of the site or by an authorized agent of the owner shall be filed with the Planning and Development Department.

A permit application form is available from:

#### ***The Town of Banff***

Planning & Development Department  
110 Bear Street  
Box 1260  
Banff AB T1L1A1  
Ph: (403) 762-1215 Fax: (403) 762-1101 website: [www.banff.ca](http://www.banff.ca)

### Required Documents

An application shall be accompanied by the processing fee with five sets of drawings to a metric scale satisfactory to a Development Officer, comprising the following:

- Details of the proposed furniture or manufacturer's brochures.
- The location of the outdoor seating area and other adjacent tenants.
  - Layout of the furniture including signage, tables, chairs, placement and number of planters and all other accessories.
  - Location of all existing street fixtures including light standards, utility poles, garbage enclosures, hydrants, bus stops, benches, landscaping, traffic signals or any other fixtures and measurements indicating their location relative to building face and sidewalk seating/café area. The plan view should extend a minimum of 6.0m to either side of the principal business.
- Location of all doorways, windows and service openings.
- Length of restaurant/café frontage.
- Distance from property line to curb.
- Proposed width of sidewalk seating/café.
- Proposed length of sidewalk seating/café.

- Proposed area of sidewalk seating/café.

### **Fees**

A \$100.00 processing fee will be applicable when the application is submitted. Re-application fees for sidewalk seating will also incur a \$100.00 processing fee.

For restaurants and cafés any additional sidewalk seating will also incur annual business licensing fees calculated per additional seat.

### **Notification and Approval**

A notice of decision will be conveyed to the applicant. Successful applicants are then required to supply a valid Certificate of Insurance (comprehensive general liability insurance) coverage.

### **Amendments**

Sidewalk seating permit holders must submit an application in writing to the Town of Banff for any amendment to their existing sidewalk seating plan.

Amendments may include:

- Changes to furniture style or design
- Addition of umbrellas
- Addition of barriers/screens
- Additions of graphics
- Any other variation

Amendment fees will not be charged to sidewalk seating permits.

### **Insurance Requirements**

The permit holder is required to hold valid comprehensive general liability insurance to the satisfaction of the Town of Banff.

To meet Town of Banff requirements the policy must:

- 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;
- State the period covered by the insurance policy i.e. commencement date and expiration date of policy;
- Be for a **minimum amount of \$2,000,000** in respect of any single occurrence;
- 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
- Be in a form and with an insurer to the satisfaction of the Town of Banff.

The Sidewalk Seating 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.

## Liquor Licensing

Sidewalk seating permits issued by the Town of Banff authorize only the consumption of food within the sidewalk seating area and not liquor. Supply and consumption of liquor within the sidewalk seating areas requires a licence from the Alberta Gaming and Liquor Commission. It is an offence to supply liquor to patrons within the sidewalk seating area unless relevant approval has been obtained in writing from the Alberta Gaming and Liquor Commission, pursuant to the provisions of the Alberta Gaming and Liquor Act and Alberta Gaming and Liquor Regulations.

To obtain the necessary application details and all other requirements, please contact:

***Alberta Gaming and Liquor Commission***

Calgary Office

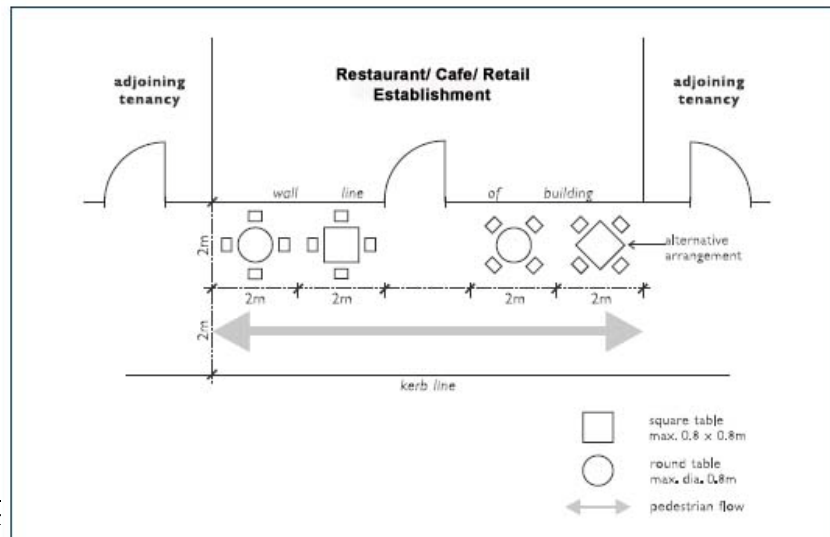
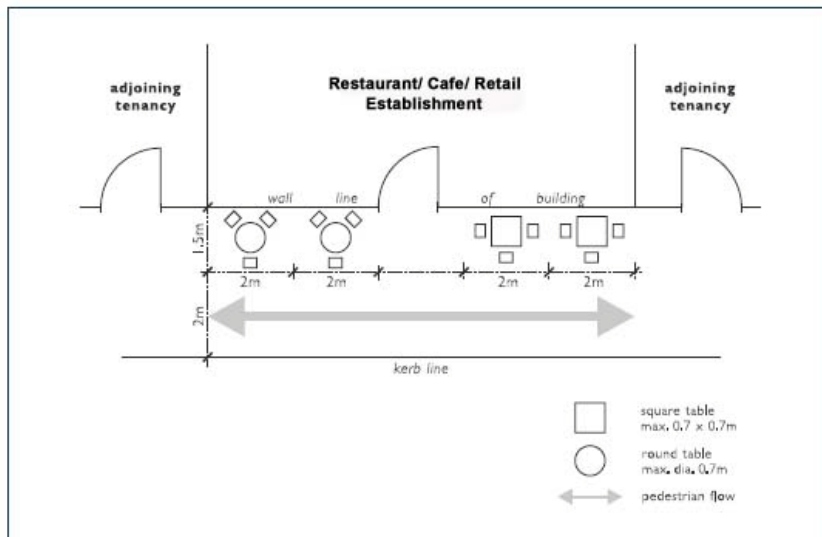
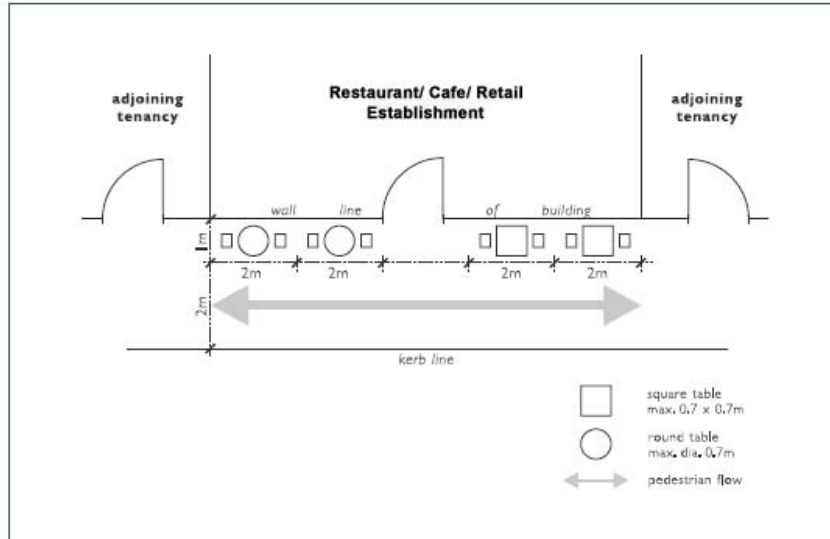
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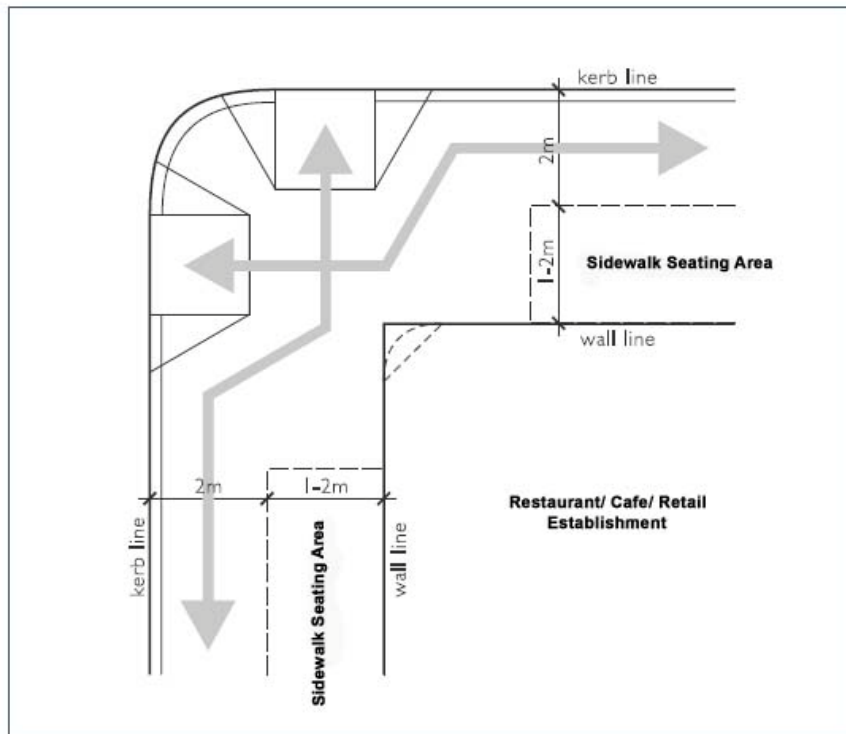
<http://www.aglc.gov.ab.ca/>

Ph: (403) 292-7300 Fax: (403) 292-7307

## APPENDIX 2: Example Location and Alignment Schematics for Sidewalk Seating



APPENDIX 2: Example location and alignment schematics for sidewalk seating areas



APPENDIX 3: Furniture Style Guide

1.0 Chairs



2.0 Tables



### 3.0 Umbrellas

