



DRUMHELLER

COUNCIL POLICY



COUNCIL POLICY #C-04-19

PATIOS ON PUBLIC LANDS POLICY AND GUIDELINES

THE PURPOSE OF THIS POLICY IS TO:

Regulate the safe and appropriate use of Public Lands 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 Category B or C patios within the License area.

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

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.

Categories of Patio:

1. Type A: composed of portable, unsecured furniture or displays in the public lands which are removed or collected and secured outside of business hours.
2. Type B: composed of either a) constructed patio or b) secured non-portable furniture on the sidewalk portion of public lands.
3. Type C: composed of constructed patio on roads portion of public lands.

License of Occupation for Patio:

1. Patio seating areas that are constructed on public lands are subject to a License of Occupation on Public Lands in the Town of Drumheller. Patios that are proposed to be constructed on the Public Lands adjacent to a business must apply for a License of Occupation for 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 a two-year cycle. Construction of a patio must not commence until a License of Occupation has been issue

3. Applicants are fully responsible for the construction, removal, and storage of any structures associated with the License area. Applicants are also fully responsible for the health and safety of the public on the area of their patio.
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.
5. Category A Patio(s) do not require a development permit but DO require proof of insurance, area plan and signed indemnity agreement as well as compliance with provincial health & safety regulations and accessibility regulations.

Application for Patio Permit:

Submission requirements:

1. A dimensioned site plan (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 (table 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).
 - iv. clear travel path parallel to existing sidewalk along with its dimensions.
2. Application form
3. Current business license
4. Certificate of liability insurance

Application Procedure:

1. Submit the completed application form with a copy of 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 business that is requesting the patio.
2. The Development Officer (or delegate) will conduct a site inspection to determine if there is adequate space for the 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.

Regulations:

Patios are only allowed at the discretion of the Town of Drumheller Director of Infrastructure in accordance with the following regulations and standards:

1. The patio and associated fittings shall not interfere with access by Town of Drumheller or utility company staff to Town or utility infrastructure.
2. The patio and associated fittings shall not limit, divert or block surface water drainage on public land or adjacent properties.
3. The patio and associated fittings shall not limit, divert, block or discharge surface water drainage on to adjacent properties.
4. The patio and associated fittings shall not block or impede pedestrian access to curb ramps.
5. The patio and associated fittings shall not reduce visibility of traffic control devices or traffic signage.
6. The patio and associated fitting shall not reduce or impede traffic safety (stopping distance and sight lines).
7. The patio and associated fittings shall not provide detrimental affects to adjacent properties.
8. Must be adjacent to the business property frontage and shall not extend onto the frontage of neighboring property owners.
9. Hours of operation are as per the Community Standards Bylaw.
10. All patio furniture, and fixtures must 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.
11. 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 snack/beverage dispensing machine, soft drinks or food or drink of any kind may be kept or stored on the patio;
 - b) The patio is not to be used as a storage area;

- c) The patio is not to be used for the cooking of food unless otherwise permitted for temporary events.
12. A travel path parallel to the existing sidewalk shall be maintained. The minimum clearance of the travel path shall be area of space 1,100 mm wide and 1,980 mm high.
13. Installation of patio barrier is required for all Type C and Type B patios.

The patio barrier must be:

- a) Constructed of sturdy material;
 - b) Designed for stability;
 - c) Securely anchored to the sidewalk at corners and regular intervals and possibly fastened to the building;
 - d) Designed for easy removal;
 - e) Meet all applicable codes and regulations.
 - f) For category B and C Patios on public lands and occupying snow-clearing routes, Patios are permitted to be in place from April 15th to October 31st of each Calendar year.
 - g) Patios on public lands not being utilized from Nov. 1st to April 14th of each calendar year will be considered seasonal and shall be removed at the owners expense.
 - h) The Town will provide a storage area for patios at no expense. Patios that are not installed the following year during the following season of April 15th to October 31st will be deemed abandoned and disposed of as the Town determines.
 - i) For patios being stored on Town property the Town will not assume any responsibility for loss or damage.
14. The Town retains the right to:
- a) Require the immediate dismantling of the patio, at the applicant's expense, in order to gain access to the public land. Reinstallation of the patio is also at the applicant's expense.
 - b) Require the immediate dismantling of the patio, at the applicant's expense, in order to gain access to the public and private utilities or infrastructure. Reinstallation of the patio is also at the applicant's expense.
 - c) Suspend or revoke the patio permit if, at any time, it is found that violations of the regulations have occurred or that the use of the patio is creating conflicts that the Town deems unacceptable. Dismantling of the patio is at the applicant's expense.
15. Parking stalls adjacent to a Type C patio will be limited to motorcycle parking or oversized handicap parking.

Liability and Indemnity Requirements:

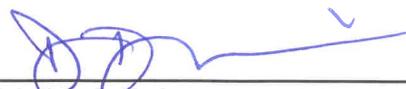
The applicant agrees that it will indemnify and save harmless the Town of Drumheller and its officials, officers, employees, servants and agents from all costs, losses, damages, compensation and expenses (including Counsel fees) of any nature whatsoever suffered or incurred by the Town and sustained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

Insurance Requirements

At all times during the term of this Agreement, the Permittee shall, at no expense to the Town, supply Commercial General Liability insurance against any and all Third Party claims for bodily injury, death, or property damage whatsoever arising out of the use and occupation by the Permittee of the lands and premises which are the subject matter of this agreement. Such insurance shall add the Town and an ADDITIONAL INSURED but not as an ADDITIONAL NAMED INSURED and shall cover for not less than Two Million Dollars (\$2,000,000). Upon signing this Permit, the Permittee shall promptly forward a Certificate of Insurance, including agreements acceptable to the Town. Should the insurance policies under which the certificate is drawn expire during the term of this agreement or any extension or renewal thereof, the Permittee shall forward a renewal insurance certificate to the Town thirty (30) days prior to the expiry of said insurance policies on a form satisfactory to the Town. All required policies of insurance must be issued by insurers duly authorized by law to do business in the Province of Alberta and shall include a provision that coverage shall not be cancelled or amended in any way unless thirty (30) days written notice has been given to the Town. Should the Permittee fail to supply the insurance certificate prescribed by this permit, then such permit may be terminated by the Town.

Adopted by Council

Date: October 28th, 2019



Chief Administrative Officer



Mayor of Drumheller



Operating Name of Business		Application Number: (Office Use Only)
Address		Postal Code
Business Telephone No.	Email address	
Name of Contact (Owner) (First Name) (Surname/Last)		
Business Mailing Address	Postal Code	Proposed Dimensions m X m
Name of Business		
Town of Drumheller Business Licence No. (provide a valid copy)		Expiry Date
Which type of Patio are you applying for: <input type="checkbox"/> Category A <input type="checkbox"/> Category B <input type="checkbox"/> Category C		
Are you applying to have an awning(s) over the proposed Patio? <input type="checkbox"/> No <input type="checkbox"/> Yes		
Are you applying to use a heater(s) within the proposed Patio? <input type="checkbox"/> No <input type="checkbox"/> Yes - radiant or propane		

Disclaimer: By signing this application, you are representing that all the information submitted with this application is accurate and current to the best of your knowledge. You also agree that if anything in this application is false, misleading or fraudulent, Town staff may refuse your application or cancel your permit.

The following items are being submitted with your application:

- a. Copy of Town of Drumheller Business Licence.
- b. Third party liability insurance policy for a minimum of \$2,000,000 that names the Town of Drumheller as additional insured.
- c. Insurance coverage must be maintained for the duration of time that Patio is on Public Lands.
- d. Dimensional site plan required for Category Type B & C. For Category Type A an area plan is the only requirement.
- e. Letter of permission/use from property owner of adjacent business owner (when sidewalk Patio extends beyond property line).

Upon approval of your application, it will be necessary to:

- 1. Enter into an agreement with the Town of Drumheller.
- 2. Pay permit fee of \$100.00 for Category Types B & C (2 year) for the use of the boulevard in accordance with the Town of Drumheller. There is no charge for Category Type A Patios.
- 3. Maintain compliance with Town of Drumheller Patio on Public Lands Policy C-04-19.

Operations of the Patio, any required construction, etc. is not permitted within the Town boulevard until all approvals have been granted, permits issued and agreements executed.

Signature

Date (mm/dd/yyyy)

By Signing above you acknowledge that you are aware of the applicable Bylaw(s) and its requirements. You agree that the Town can send you notices by email and that any notices sent by email are "deemed" to have been received on the day they were sent or if sent after 5:00 pm that they are deemed received on the following day.