



POLICY-PROCEDURE MANUAL

TITLE: COMMERCIAL USE PATIOS ON PUBLIC LAND

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Prepared By:

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Development

Authorized By:

Council
Council
Council

Date of Issue:

April 12, 2021
May 19, 2020
February 25, 2013

Temporary Amendment expires December 31, 2024

“THAT the fees be waived for Commercial Use Patios on Public Lands Policy C-27 for 2024.”

Motion: C24-002
2022 Budget Deliberations (2.10.3.1)

New outdoor spaces that are easily accessed and friendly for pedestrians, shoppers and visitors will add vitality to and enhance the economic heart of Kitimat. Many commercial buildings do not have a privately owned yard which can accommodate an outdoor business area. This policy establishes guidelines for orderly use of municipal walkways, public squares and green spaces in the Downtown Revitalization Area (DRA) and other commercial areas, including the M2-A Zone, for limited business purposes; while ensuring pedestrian use of walkways is given priority and respected.

POLICY

1. Municipal land, including a portion of a walkway, park, public square, right-of-way or road, may be utilised for purposes of an outdoor patio (hereinafter referred to as “Patio”) subject to the following conditions:
 - a. Patio is accessory to an adjacent restaurant, coffee shop, or licensed establishment with a valid business licence and occupying the ground floor of a building in a commercial zone or the M2-A zone;
 - b. Walkway a minimum of 1.6 m wide remains free and clear from obstructions (including light standards, plantings, patio furniture and signs) and open to pedestrian traffic;
 - c. No amplified music is played on the Patio after 9:00 pm in any Commercial Zone and quiet peace, rest, enjoyment, and comfort of persons is maintained in a residential areas or vicinity as outlined by *Kitimat Municipal Code* provisions for noise control.
 - d. Hours of operation for the Patio may match those of the parent business; however, the District of Kitimat may restrict hours of operation of Patios in close proximity to residential dwellings (in R-Zones); and
 - e. Patio has a valid Licence of Occupation.

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2. Licence of Occupation for Patio may be issued at the discretion of the Chief Administrative Officer or Corporate Officer. A staff decision made under this policy may be appealed by application to Kitimat Council.
 3. The District of Kitimat retains the right to revoke any permission or license granted under this policy at any time and without compensation; and any license shall automatically terminate upon the sale or other title transfer of the parent business.

APPLICATION PROCEDURE

4. The Applicant delivers a completed Patio Application to the District of Kitimat which includes:
 - a. A letter of intent that includes hours and days of operation;
 - b. Photograph of building exterior used by the parent business;
 - c. Colour rendering to scale of the proposed patio (include style of furniture and other amenities);
 - d. Site plan which shows proposed patio and adjacent walkways or other public lands
 - e. Specifications as to location, number of tables and chairs, type of fence or railing, and any proposed amenities such as flower pots, hanging baskets, umbrellas, lights and heaters; and,
 - f. Application fee.
5. Application will be reviewed by Staff to ensure it is complete and meets guidelines including design. Staff may conduct a site visit and meet with the applicant as part of the review process.
6. Public Notice shall be issued and application for sites within the Downtown Revitalization Area shall be referred to the Downtown Design Panel. A Patio with a maximum of three tables and six chairs and without a constructed platform is exempt from design and Design Panel review.

RENEWAL PROCESS

7. Any approved design may be re-used in future years and a Licence to Occupy may be issued for more than one year, provided that:
 - a. The approved design is reused;
 - b. The Patio structure is maintained and in excellent repair; and
 - c. The District of Kitimat has received no complaints.
8. An applicant with an approved Patio may renew the license annually, prior to 1 April, by:
 - a. Paying seasonal fee;
 - b. Providing proof of valid business licence; and valid liability insurance as outlined in this policy;
 - c. Installing Patio of previously-approved design or receiving authorization before installing a modified structure; and
 - d. Providing written consent from an abutting business operator(s) for any Patio which occupies municipal land in front of an abutting business.

DESIGN GUIDELINES

9. A Patio may be subject to design review as outlined in this policy.
10. Design Guidelines for constructed patios shall be as follows:
 - a. Design, materials and colours of all Patios and accessories shall conform to *Kitimat Downtown Design Guidelines* or complement the architectural style and colours of the parent business's building façade. Accessories shall be of quality materials and shall retain their visual appeal through regular maintenance or replacement;
 - b. A building permit is required for all constructed Patio platforms or structures;
 - c. Preferred materials for constructed Patios have durability and will retain a high visual quality from year-to-year;
 - d. All constructed Patios shall be wheelchair accessible unless this is shown to the satisfaction of the District of Kitimat to be impractical;
 - e. Accessories including landscaping, flower boxes, umbrellas, tables and chairs shall be contained within the area defined for the Patio;
 - f. Patio on level ground shall be flush with the abutting walkway. When a walkway patio is accessed from inside a building, it shall be flush with the building floor. For any Patio situated on sloping land, point of entry shall be flush with the walkway; if this is shown to be impractical, a maximum of one step will be permitted; and
 - g. A Patio may be required to have a removable fence or railing installed to separate the Patio from the walkway, public square or road. A railing shall not be placed on the curb, and shall be no more than 1m high as measured from the Patio deck.

LOCATION

11. A Patio may use a road, walkway and/or parking stall(s) or a portion or combination thereof. In such locations, a Patio shall be limited to the linear frontage of its parent business and in the case of a corner business shall be adjacent to only one side of the business. Further, with respect to the use of parking stalls, the Patio shall occupy a maximum of one parallel stall (or portion thereof) or a maximum of three angled stalls (or portion thereof). A Patio shall not use both a parallel and an angled parking stall. The Patio must leave a walkway no less than 1.6m wide.
12. A Patio shall not be approved when it may interfere with safe pedestrian and vehicle movement; for example, within 6 metres of a stop sign, or in a location where visibility or safety is deemed an issue.
13. A Patio may not occupy municipal land in front of an abutting business unless written consent from the abutting business operator(s) is provided to the District of Kitimat.

LICENSES AND INSURANCE

14. Applicant must obtain necessary licences from the District of Kitimat, Northern Health, Liquor Control and Licensing Branch and other relevant or applicable licensing or regulatory agencies for proposed Patio activities. Proof may be required as part of the application approval process.
15. Applicant must ensure public liability insurance coverage to the satisfaction of the Municipal Treasurer, which indemnifies the District of Kitimat against any damages, injuries or claims arising from use of the Patio. The insurance should indicate the District of Kitimat is an

additional named insured. Proof of insurance shall be provided on approval of the license, and annually for each year the license is in effect.

SEASON

16. Patios may be used for business activity between 1 April and 1 October of the same year. Staff has the authority to negotiate a longer operational period on a case-by-case basis.
17. Licences may be issued for three consecutive seasons, and begin on 1 April and expire 1 October each year. All structures must be removed by 15 October. The District of Kitimat may approve an alternate licence period upon written request and subject to municipal operational requirements.
18. Patios occupying parking stall(s) or roads may not extend their licence into snow season.

FEE

19. Licence fee is \$250 per season; plus \$250 per season for each parking stall (or portion thereof) rendered unusable by a given Patio.
20. Fee is calculated on a seasonal basis and will be prorated if a longer season of operation is negotiated.
21. Business licence for subsequent year shall be withheld pending payment of any outstanding fee or reimbursement for removal of Patio.

MAINTENANCE

22. A Patio owner shall conduct regular inspections of all components including finish (lacquer, paint or stain) and structure (deck surface, fence or railing). The District of Kitimat shall withhold a renewal license if a Patio is not maintained in an attractive and safe condition. The District of Kitimat may remove poorly maintained Patio structures at owner's expense.
23. A Patio owner accepts that a Licence of Occupation for Patio shall not in any way restrict the right of the District or require the District at any time to:
 - a. alter any road, curb, gutter, sidewalk or boulevard abutting or adjoining the Licence area;
 - b. inspect, construct or maintain any form of structure, service or utility on, over or under any portion of the Patio Licence Area and, for such purpose, the District may require that the Patio be removed in part or in whole at no cost to the municipality
 - c. In making repairs or performing maintenance, the District may bring and leave upon the Patio area, the necessary materials, tools and equipment.