

Department:	<u>Development Services</u>	Policy No.:	<u>DEV-006</u>
Sub-department:	<u>Administrative</u>	Created By:	<u>Caroline Lamont</u>
Approved By:	<u>Council</u>	Amended By:	<u>09/02/2014</u>
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Meeting No.:	<u>1322</u>	Meeting No.:	<u>1374</u>

INTENT

To legally permit the use of public right of ways (sidewalks and parking stalls); or the occupancy of required parking stalls on private property for patio and other encroachments for the purpose of providing outdoor seating and display areas.

PURPOSE

To ensure the installation of aesthetically pleasing and safe outdoor seating and display areas and to encourage designs in keeping with the Downtown Enhancement Strategy.

GENERAL PROVISIONS

1.0 USE AGREEMENT

- 1.1 All requests for outdoor encroachments on public or private lands shall be reviewed and approved by the Manager of Development Services Department in accordance with this *Patio and Display Area Policy*. The approval will include a permit that is executed by the Village of Pemberton, the applicant and (if different from the owner) the benefiting property.
- 1.2 All applicants shall obtain public liability insurance in the amount of not less than \$2,000,000.00. The Village of Pemberton must be clearly named in the insurance policy relative to the outdoor seating and display area.
- 1.3 The applicant shall obtain the necessary licensing from the Ministry of Public Safety and Solicitor General, Liquor Control and Licensing Branch and any other applicable regulatory agencies (i.e. health, electricity). The Village may also refer applications to the RCMP for further comment.
- 1.4 An outdoor seating area shall be limited to the maximum building width of the business (that is requesting permission) that abuts the public right of way. The Village may consider an application that further extends in front of another adjacent business if this agreement with the adjacent business is provided to the Village in writing.
- 1.5 The use of public parking stalls for a patio or display area shall not exceed two stalls, unless further approvals are authorized by the Village.

- 1.6 Permits for seating and outdoor display areas shall be limited to a temporary period commencing on April 1st, subject to receipt of approval from the Public Works Manager and the Bylaw Enforcement Officer, and ending on October 31st of each year. All structures must be removed by the first week of November, unless otherwise approved in writing by the Manager of Development Services.
- 1.7 A patio and display area will not be approved if public safety will be compromised, in the opinion of the Manager of Public Works, Fire Chief and/or the Building Inspector.
- 1.8 The use of outdoor patio areas shall be limited to the serving of food and beverages and display of merchandise. No financial transactions shall be processed.
- 1.9 The operator(s) is responsible for ensuring that the public sidewalk and the road right-of-way are routinely swept and otherwise kept clean of debris and/or spills.
- 1.10 The Village retains the right to revoke permission granted to use Village sidewalks or required parking stalls for an outdoor patio or display area at any time where it is found that the use is creating unacceptable difficulties for the community. In the event that a Patio & Display Area Permit is revoked, the area shall be restored back to its original condition at the operator's expense.
- 1.11 The annual fee payable to the Village of Pemberton for use of the public right of way shall be \$4.00 per square meter.

APPLICATION REQUIREMENTS

2.0 APPLICATION REQUIREMENTS FOR A PATIO AND DISPLAY AREA PERMIT

- 2.1 All applications for new or renewed outdoor seating and display areas must include the following:
 - a. A non-refundable \$50 *application fee*, payable to the Village of Pemberton.
 - b. A *Letter of Intent* that provides an overview of the project and outlines the operating hours and days to which the outdoor seating and display area will be in use.
 - c. Scaled drawing(s) of the seating/display area that includes the location, number of tables and chairs on sidewalks and parking stalls, access and location gates (where applicable), sidewalk access (width), style of fencing and provision of amenities ranging from flower baskets and planters to garbage containers, and the location of any permanent Village structures such as light standards or trees that could impede pedestrian access around the area.
 - d. Photographs of the adjacent building and any proposed tables, chairs, heaters, fencing, planters, umbrellas, etc. to be used.
 - e. Identification and samples (including colours) of any materials needed to construct the patio or display area.
 - f. If the parties or location of the land affected by the *permit* changes, the Village shall be notified immediately. A \$50.00 fee and proof of insurance will required to undertake the necessary changes to the permit.

- 2.2 All patio and display areas to be located on public right of ways (sidewalks, parking stalls) or private required parking areas must be approved by the Manager of Development Services prior to issuance of a *permit*.
- 2.3 The *permit* shall be limited to five (5) years. Any change to the use of the right of way, requires the notification of the Village. If the changes are substantial a new application may be required in accordance with the terms identified in Section 1.1. of this policy.

DESIGN CRITERIA

3.0 DESIGN CRITERIA

- 3.1 Patio and display areas are permitted on public rights of way provided a minimum width of 1.5 m (5 feet) is left clear and available for pedestrian traffic adjacent to patio or display area.
- 3.2 Construction of a temporary platform shall be at the same elevation as the abutting curb and sidewalk unless site conditions dictate otherwise. The platform shall have a maximum width and length of 6.0 meters (19.7 feet). Irrespective of the prior noted maximum dimensions, the platform shall not extend beyond the limits of the demarcations of the affected parking stall(s).
- 3.3 The patio and display area should be open to the adjacent sidewalk. A guardrail should be constructed on the three sides of the platform that do not abut the public sidewalk, and shall have reflective tape or similar product at the two corners opposite the vehicle traveled section of the roadway. The top of the guardrail shall be at a minimum height of 0.81 meters (2.7 feet) and a maximum height of 1.0 meter (3.3 feet).

Vertical pickets shall be installed at a maximum opening of 10.0 centimeters on the three sides of the platform that do not abut the public sidewalk.
- 3.5 The design, materials and colours of furniture, umbrellas, etc. must be compatible with the streetscape and the Village's Development Permit Area Guidelines for Downtown Revitalization (DPA #4). A high quality of materials and finishes shall be utilized.
- 3.6 Movable seating (i.e. tables and chairs) are required and shall be of durable materials, preferable metal or wood rather than plastic. Tables within the public right of way should be a maximum of 0.9 meter (3 feet) in diameter or, if rectangular, 0.9 meter (3.0 feet) on the longest side.
- 3.7 The height, quality and design of railings, screens, planters, awnings and canopies must be approved by the Village (and may require a building permit). Lighting, electrical fixtures and heaters must comply with the Electrical Code and not create tripping or safety hazards.
- 3.8 The patio area must be wheelchair accessible, either from the interior of the premises or directly from the sidewalk. All such items placed in the patio and display area are collectively called "Improvements".

- 3.9 No signage will be permitted on the patio and display area structure unless permitted in a sign permit.
- 3.10 Free-standing propane heaters are permitted and must be used as per the manufacturer's instructions.
- 3.11 Planters with seasonal plantings are encouraged but should be readily removable.
- 3.12 Amplified music or speakers are prohibited in the patio and display area.
- 3.13 The patio and display area must be kept in a clean, safe, sanitary and attractive condition.
- 3.14 Patios and display areas shall not be located within 6 meters (20 feet) of any corner.
- 3.15 The patio structure and improvements must be removable within 48 hours' notice if the Village on a temporary basis requires the space.
- 3.16 Patios and display areas shall not be wildlife attractants.