

TOWN POLICY NUMBER: 004/2011

REFERENCE:

ADOPTED BY:

SUPERSEDES:

Town Council

PREPARED BY:

EFFECTIVE DATE:

Planning & Community Development

September 20, 2011

TITLE: Temporary Use of Public Property Policy

POLICY STATEMENT

To establish a written policy, as approved by Council, regarding the Temporary use of public land or a public road right of way for the commercial purposes of street vending, events, sales, and/or temporary patio usage:

PURPOSE

To establish a process for allowing and encouraging the use of public land or public road right of way for temporary, commercial and entertainment purposes. Having additional usage and activity on the street right of way can create vibrancy on the streetscape and attract additional patrons to existing commercial areas.

Types of Temporary Uses with Definitions:

- **Sidewalk Sales** –*Tables and racks set up temporarily in front of a commercial establishment filled with non-perishable retail merchandise.*
- **Patios** – *An extension to an existing ‘restaurant’, or ‘drinking establishment’ use that requires no permanent construction and includes a seating area for customers.*
- **Buskers** –*A person (or persons) who entertains people for money in public spaces*

- **Mobile Vendors** – *Examples include hot dog or ice cream carts, other mobile vendors that are locating throughout the community in various temporary locations.*
- **Abutting Vendors** – *Vendors located directly adjacent to an existing commercial establishment of which operation is done by that establishment, for the purposes of that establishment. Includes selling of perishable items.*
- **For Profit Events** – *Events that are in nature, for the commercial purpose of making money or profit through the selling of good or services. Examples include farmers markets, other markets, trade fairs, for-profit music concerts. This does not include fundraising events.*
- **Not-for Profit Events** – *Events that are in nature, not for profit and are thus community-orientated, charitable, or activity-based.*

GENERAL REGULATIONS

1. No permanent construction shall be allowed on a public road right of way or public land. For a patio, this means that the entire structure can be constructed at or above grade and can be removed within 24 hours.
2. An application for a Temporary Business License must be submitted with the Department of Planning and Community Development. With the license application the following information is required:
 - a. A sketch illustrating proposed layout, location, and dimensions
 - b. A description of the business and hours of operation
 - c. Photos and description (including dimensions, and size) of cart, mobile vendor, stages, patios, tables.
 - d. The nature and purpose of such Temporary Use.
 - e. Time period requested with start and end date.
 - f. Name of business
 - g. A policy of liability insurance naming the Town of Rocky Mountain House as additionally named insured.
3. All applications will be circulated to other Departments that are deemed necessary by the Planning and Community Development Department. The Department of Engineering and Operations will review the conformance of the Temporary Use with the Traffic Bylaw and may require an on-site review to define the area available for use. Temporary structures may require engineered stamped drawings upon review by the Department of Engineering and Operations.
4. The Planning and Community Development Department will follow the recommendations and advice of other Departments for approval, with or without conditions of approval.

5. All applicable commercial uses (i.e. Restaurants, bars, and nightclubs, etc.) will be required to receive approval from the appropriate Provincial regulatory body (i.e. Alberta Gaming and Liquor Commission, Alberta Health Services, etc.)
6. The applicant (through completion of Schedule A), shall indemnify and save harmless the Town of Rocky Mountain House from and against all losses, claims, demands, actions, payments, suits, recoveries, judgments and statements of every nature and description brought or recovered against the Town of Rocky Mountain House and arising out of the Temporary Business License.
7. The Planning and Community Development Department, at their discretion, may be required to notify adjacent landowners of the proposed Temporary Use.
8. A Temporary Business License Fee according to the Master Rates and Fees policy shall be required to process the application.
9. The applicant will be required to maintain Liability Insurance (minimum of \$2,000,000 for patios, vendors, and re-occurring events) as a condition of the Temporary Business License and will name the Town of Rocky Mountain House as an additional insured.

SPECIFIC REGULATIONS

Sidewalk Sales

1. Tables, racks, and chairs should be of uniform style and may not be anchored to the sidewalk or road right of way.
2. Sidewalk sales are only allowed abutting the frontage of an existing commercial establishment for the purposes of this establishment

Location

1. The applicant shall provide unobstructed access to the entrance of a building and to adjacent businesses.
2. Temporary uses will not be permitted in a location which may obstruct sightlines at an intersection, or cause any operational or safety problem on a public road right of way.
3. The applicant must provide a minimum of 1.5 meters of unobstructed sidewalk for pedestrian usage.

Mobile and Abutting Vendors

1. The Town of Rocky Mountain House will not be responsible for any power requirements.
2. All vendors are required to recycle glass, cans, and plastics in separate recycle containers, The Vendor must collect and dispose of any refuse produced directly or indirectly by the vending operation within a 6-meter area of stand.

This includes refuse/litter discarded by customers, pedestrians, or operators. If a commercial container is not provided, the Vendor must remove the garbage from the site.

3. Where a conflict arises with an existing business, the Town of Rocky Mountain House reserves the right to relocate the Vendor.
4. The Vendor must not obstruct doorways, fire hydrants, driveways, loading zones, or emergency access routes.
5. All vending must be oriented towards the sidewalk traffic.
6. Where a conflict arises because of construction, cleaning, road traffic concerns, or other unforeseen problems, the Town of Rocky Mountain House reserves the right to relocate a Vendor.
7. In the occasion that a Event (either For-profit or Not-for profit) is scheduled to occur on the same public land a Vendor is applying to locate on, the Vendor must require written approval from the Event organizing body before being granted approval.
8. If a Mobile Vendor is consistently moving from designated sites throughout Town, the Mobile Vendor must provide a plan showing the sites on public land that will be utilized at approximate times and dates.

Patios

1. A building permit may be (upon consultation with the Town's Building Inspector) required if the applicant wishes to construct a canopy, temporary deck, or any other structure within the License area. The associated building permit fees arising from this requirement are the responsibility of the applicant.
2. We encourage patios to have an open appearance with a defined edge, such as a railing, fence, suspended chain, or row of planters or pots.
3. Patios must be adjacent to the frontage (either side of a double frontage use) of an existing restaurant, café or drinking establishment and must not extend laterally beyond the frontage unless approved by the Town of Rocky Mountain House.
4. Smoking is not allowed in the Patio area

Enforcement

1. All Temporary Business Licenses issued will be subject to the regulations and procedures stated in the Business License Bylaw.
2. Temporary uses operating on a public road right-of-way without a valid Temporary Business License will be subject to various forms of Enforcement that primarily falls under both the Traffic Bylaw and Business License Bylaw.
3. Licenses for Temporary uses which are in default of performance of any of the above obligations shall be terminated, and enforcement measures will be initiated by the Department of Planning and Community Development.
4. All Temporary uses must adhere to the regulations of the Traffic Safety Act of the Province of Alberta.

SCHEDULE "A"

Town of Rocky Mountain House

**RELEASE OF LIABILITY, WAIVER OF CLAIMS, ASSUMPTION OF RISKS AND
INDEMNITY AGREEMENT**

In recognition of my request to undertake the following Temporary Use of Public lands:

At (location): _____

I _____, hereby agree to indemnify and save harmless the Town, it's employees, officers, contractors, and agents, from and against all losses and all claims, demands, payments, suits, actions, recoveries and judgments of every nature and description, brought or recovered against it, or the Town, by reason of or arising in any way from, any act or omission of the Property Owner, it's employees, officers, directors, sub-contractors, servants or agents.

I further agree that under no circumstances shall the Town be liable or responsible for any bodily or personal injury or property damage, or any damage of any nature whatsoever, that may be suffered or sustained by the Property Owner, it's employees, officers, directors, sub-contractors, servants or agents.

Dated at **Rocky Mountain House, Alberta**, on this the _____ day of _____, 20____

Applicant (Print Name)

Applicant (Signature)

Applicant's Telephone

Applicant's Address

Witness (Print Name)

Witness (Signature)