



TOWN OF GOLDEN CORPORATE POLICY

**TEMPORARY LICENSE OF OCCUPATION
(FOR SIDEWALK CAFES, MERCHANT ENCROACHMENTS, MOBILE VENDORS,
NON PROFIT VENDORS, STREET PERFORMERS, COMMUNITY EVENTS, AND
MOBILE VENDOR ASSOCIATIONS)**

Effective Date:	Authorized By:	Replaces:
April 27 th , 2010	Council – Special Meeting	New

INTENT

To establish guidelines and give direction for the orderly establishment and use of town sidewalks, boulevards, parks, rights-of-way, and street parking spaces for a variety of temporary occupations to ensure appropriate location and massing, good structural and aesthetic design, and the assurance of public safety and convenience,

POLICY CONTEXT

The use of Town Public Space may be permitted for various users as defined above holding valid and current Town Business Licenses (where applicable) in Development Permit Areas 1 (Historical Downtown), 2 (South Town), and 4 (Corridor). These licences are issued at the discretion of Town of Golden staff. Any decisions made under this policy by staff may be appealed by application to the Town of Golden Council.

POLICY DEFINITIONS

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| Town of Golden
("Town") | The municipality of the Town of Golden, a body corporate represented by the current elected Council and staff authorized to implement this policy and associated bylaws. |
| Public Space | Sidewalks, rights of way, boulevards, street parking spaces, parks, and parking lots owned or leased by the Town of Golden. |
| Sidewalk Cafe | (Outdoor Patio, Sidewalk Patio, Street Patio/Deck etc.)
A directly adjacent spatial accessory use to a restaurant or licensed establishment located on the main floor of a building occupying portions of Public Space, typically for the purpose of serving food and beverages in an outdoor setting to seated patrons, and consisting of at least 3 tables with associated seating. |
| Merchant
Encroachment | (Rack Displays, Outdoor Tables, Merchandise Displays etc.)
A directly adjacent spatial accessory use to a restaurant, licensed establishment, or other business located on the main floor of a building, occupying portions of Public Space, for the purpose of serving food and beverages, providing a space for their consumption, or displaying merchandise in an outdoor environment, with seating for no more than 4 individuals; |

Mobile Vendor	(Street Vendor, Street Stand, Food Truck, Raffle Tent etc.) An independently operated vehicle, structure, or mobile food vending apparatus occupying Public Space, typically for the purpose of providing food and beverages, retail products, or services for commercial sale by a business entity, in an outdoor setting to either passers-by or seated patrons.
Non Profit Vendor	(Raffle Tent, Ticket Table, BBQ Stand, Fundraising Table etc.) An independently operated vehicle, structure, or mobile food vending apparatus occupying Public Space, typically to provide food and beverages, retail products, information or services for sale or free consumption by a non profit entity, citizen association or service club, in an outdoor setting to either passers-by or seated patrons for the purposes of fund raising or addressing public awareness of a general or specific issue.
Street Performer	(Busker, Outdoor Band, Street Artist, Acrobat, Exhibitionist, etc.) An individual, duo, or group utilizing Public Space for the purpose of public exhibition of artistic expression, remunerated either voluntarily on site or by a set fee paid by a third party for commercial or non profit purposes.
Community Event	(Parade, Faire, Outdoor Concert, etc.) A mass participatory event either centrally located or mobile, free of charge to the public for general admission for the purposes of entertainment or education, and organized by a non-profit entity other than a Mobile Vendor Association which may include Mobile Vendors, Non-Profit Vendors, Street Performers and Mobile Vendor Associations.
Mobile Vendor Association	(Farmers Market, Business Collective, etc.) A collection of independent Mobile Vendors established through organized association serving food, beverages, or specialized retail products in an outdoor setting to either passers-by or seated patrons by utilizing either vehicles, independent food preparation or retail vending apparatus', or mobile shelters and occupying portions of Public Space.
Temporary License of Occupation ("License")	The mechanism of authorization for the legal establishment of Sidewalk Cafes, Merchant Encroachments, Mobile Vendors, Non Profit Vendors, Community Events, Street Performers, and Mobile Vendor Associations.
License Area	The physical space to which the Temporary License of Occupation applies.
Staff	The Town of Golden's Chief Administrative Officer, Manager of Corporate Administration, or designate.
Business License	An issuance by the Town of Golden under Bylaw 990 or its replacements authorizing an individual, proprietorship, limited partnership, company, or corporation providing professional, personal, or other services for the purpose of gain or profit to operate within the jurisdiction of the municipality.

APPLICATION PROCEDURE

1. Sidewalk Cafe's
The applicant submits a completed License Application plus:
 - a. A letter of intent that includes the hours and days of operation;
 - b. Photograph of the building exterior where the parent business is located;
 - c. Colour rendering to scale of the café (include style of furniture and other amenities);
 - d. License Area site plan including total area to be used; and,
 - e. Specifications on the location, number of tables and chairs, type of fence or railing, and any proposed amenities such as flower baskets, umbrellas, etc.

2. Merchant Encroachments
The applicant submits a completed License application plus:
 - a. A letter of intent that includes the hours and days of operation;
 - b. License Area site plan including total area to be used; and,
 - c. Specifications on the type of encroachments (tables, chairs, flower baskets, umbrellas, awnings, display racks, equipment, etc).

3. Community Events
The applicant submits a completed License application plus:
 - a. A letter of intent that includes the hours and days of operation;
 - b. License Area site plan or route including total area to be used; and,
 - c. A list of activities, Performers, and Vendors to be present.

4. Mobile Vendors, Non Profit Vendors, and Mobile Vendor Associations
The applicant submits a completed License application plus:
 - d. A letter of intent that includes the hours and days of operation;
 - e. Proof of Mobile Vendor Association if applicable;
 - f. Photograph of the vehicle(s) or apparatus to be used;
 - g. License Area site plan including total area to be used; and,
 - h. Specifications on the location of any accessories (tables, chairs, flower baskets, umbrellas, awnings, etc).

A Mobile Vendor operating solely under the collective activity of a Mobile Vendor Association is exempt from requiring a License, provided the Mobile Vendor is a recognized participant of the Mobile Vendor Association. A Mobile Vendor intending to operate separately from a Mobile Vendor Association must hold a License. A valid and current Business License with the Town is required in either case.

5. Street Performers
The applicant submits a completed License application plus:
 - a. A letter of intent that includes the hours and days of operation;
 - b. Specifications on nature and the location of any accessories.

Street Performers performing within the context and License Area of a Community Event do not require a License.

INITIAL REVIEW AND ACCEPTANCE

6. Applications will be reviewed by Staff to ensure they are complete and meet policy intent. Staff may conduct a site visit as part of the review process. Applications not meeting the requirements of this policy or viewed by Staff as inappropriate may be rejected.
7. Once approval in principle is granted by Staff, the applicant must:
 - a. Complete a License Agreement to the satisfaction of Staff;
 - b. Submit payment of the established fees, including those for a Business License in the case of Mobile Vendors, Street Performers (profit oriented) and all member businesses within a Mobile Vendor Association;
 - c. Furnish proof of the required liability insurance if required or sign a required waiver; and
 - d. Furnish proof of any compliance required by third parties.
8. Licenses will not be approved for any applicant requiring but not in possession of a valid and current Town Business License or having outstanding accounts with the Town.

INSURANCE AND THIRD PARTY APPROVALS

9. Applicants must carry liability insurance that indemnifies the Town against any and all damages, injuries or claims arising from their use of the area so licensed in an amount no less than \$3 million. The insurance must indicate that the Town is an additional named insured for this use. Proof of this insurance must be supplied on approval of the Licence.
10. As an exception, Street Performers in lieu of insurance shall sign a waiver indemnifying the Town of any liability associated with their activity.
11. License of Occupation applicants must obtain the necessary applicable permits from the Town, the Ministry of Health, Liquor Control and Licensing Branch and other relevant or applicable licensing or regulatory agencies for the specific License Area in which they are proposing to engage. Proof of this may be required as part of the licence approval process.

TERM AND RENEWAL

12. Licences may be issued for a maximum of three years, renewable and payable annually.
13. To annually renew an applicant must submit before April 1st:
 - a. Payment of the seasonal or annual fee;
 - b. Proof of a current and valid Business License or licenses in the case of a Vendor Association;
 - c. Proof of valid liability insurance as outlined in section 12; and,
 - d. A declaration that the terms of the License will remain strictly adhered to.
14. An annual renewal may be granted provided that:
 - a. The design, location, and intent of the License Area remain the same as the previous year;
 - b. Any structures, vehicles, accessories, apparatus' and signs associated with the License are maintained and in good repair; and
 - c. The town has received no justifiable complaints.

15. The Town shall withhold the issuance of a renewal License if the License Area is not maintained in attractive and safe condition. The Town may remove poorly maintained structures at the owner's expense.
16. Seasonal terms for Sidewalk Cafe's begin on May 1st, expire October 31st, and all structures must be removed by November 7th. Sidewalk Cafes occupying parking spaces or street rights-of-way shall not extend their Licences over winter months.
17. Merchant Encroachments are generally not subject to seasonality. Licences are issued or renewed May 1st on an annual basis.
18. Mobile Vendors and Non Profit Vendors may be subject to alternative seasonal variations. The Town may approve alternate Licence periods upon written request and subject to the Town's operational requirements. Vendors will be required to vacate approved License Areas as directed by the Town to accommodate operational requirements.

GENERAL TERMS AND CONDITIONS

DESIGN OF SIDEWALK CAFES

19. Design guidelines for a License Area shall be incorporated as follows for Sidewalk Cafes requiring a constructed platform:
 - a. The design, materials, and colours of all Sidewalk Cafés and accessories shall compliment the architectural style and colours of the parent business's building facade. Accessories shall be of quality materials and shall retain their visual appeal through regular maintenance or replacement.
 - b. New signage, permanent changes to any building facade (i.e. repainting) and constructed cafes require Development Services Department approval.
 - c. All accessories including but not limited to landscaping, flower boxes, umbrellas, awnings, and tables and chairs shall be contained within the License Area.
 - d. Preferred materials for constructed Sidewalk Cafés are those that have durability and will retain a high visual quality from year to year. All constructed Sidewalk Cafés shall be wheelchair accessible unless it is shown to the satisfaction of the town to be impractical.
 - f. Sidewalk Cafes shall be flush with the sidewalk on level grades. In the case where the Sidewalk Café is accessed from inside the building, it shall be flush with the floor of the building. In cases of Sidewalk Cafés situated on sloped grades, the point of entry shall be flush with the sidewalk unless it is shown to be impractical in which case steps will be permitted.
20. A License Area may be required to have a removable fence or railing installed to separate it from the remainder of the sidewalk. Any License Area placing patrons within parking spaces must have a removable fence, railing, or other perimeter border installed to separate patrons from vehicle traffic.

A grade separation of the License Area relative to the street of less than one (1) metre requires the placement of a low profile yellow painted curb around the License Area perimeter adjacent to the street. For example, Sidewalk Cafes using paving stones require a curb; elevated decks do not. The maximum height of any railing, fence, or perimeter border shall be 1.02 m as measured from the License Area seating or standing level.

LOCATION OF LICENSE AREAS

21. A License Area will generally not be permitted where it may interfere with safe vehicle and pedestrian movements including adjacent to or upon Highway 1 or 95, within 6 metres of a stop sign, or in a location where visibility or safety is deemed an issue, unless appropriate traffic control measures and third party approvals are in place.
22. License Areas may use a combination of Public Space as required. Sidewalk Cafés and Merchant Encroachments shall be limited in size to the linear frontage of their parent *business* and in the case of a corner business they shall be adjacent to only one side of the business, both subject to the parking space restrictions listed below.

SIZING, SPACING, AND CONDUCT OF LICENSE AREAS

23. Sidewalk Cafes shall occupy a maximum of one parallel parking space (or portion thereof) or a maximum of three (3) angled spaces (or portion thereof). Sidewalk Cafes shall not use both a parallel and an angled parking space. All License Areas utilizing a sidewalk must leave a minimum width of 1.6m of sidewalk free and clear from obstructions for pedestrian use.
24. Mobile Vendors and Non Profit Vendors requiring parking space shall occupy a maximum of one parallel parking space (or portion thereof) or a maximum of two (2) angled parking spaces (or portions thereof).

In the absence of marked lines to identify a parking stall, the following measurements shall be use to identify the area of a stall: 7.3m in length, and 2.8m in width.

25. Mobile Vendors and Non Profit Vendors Public Space shall:
 - a. be limited to two vendors or performers per linear block;
 - B. not block doorways, display windows, impede pedestrian access or vehicular access to parking spaces not within a License Area.
25. Street Performers utilizing Public Space shall:
 - a. be limited to two vendors or performers per linear block;
 - b. not utilize amplification equipment unless performing as or a part of a Community Event;
 - c. not block doorways, display windows, impede pedestrian access or vehicular access to parking spaces not within a License Area;
 - d. Limit performing to between 10:00 am and 9:00 pm daily;
 - e. Occupy a specific location for no longer than one (1) hour within a four (4) hour interval before moving to a location no less than thirty (30) metres away;
 - f. Ensure their introduction to adjacent business owners or operators within ten (10) metres of their performance location;
 - g. Respect the right of businesses to operate without undue disturbance by entertainment outside their premises.
26. Mobile Vendor Associations shall occupy an area determined by staff to be appropriate in scope and location.

27. A License Area shall not extend onto the sidewalk or street right-of-way/parking area in front of an adjacent business unless written agreement from the adjacent business is provided to the Town.
28. License Areas must be kept in a good, neat, and tidy condition and order and Licensees shall make promptly, at their cost, all needed repairs to the surface of the License Area, whether for reasonable wear and tear or otherwise. No third party signage is permitted, except upon pre-printed umbrellas.
29. Vehicles and apparatus' used by Merchant Encroachments, Mobile Vendors, Non Profit Vendors, and Street Performers must be of a quality so as not to be considered by the public as unsightly or visual detractors in the area.
30. All sidewalks and rights of way adjacent to the License Area must be kept free and clear of obstruction and open to pedestrian access at all times. Licensees shall exercise the greatest care in the use and occupation of License Areas and adjacent areas and shall provide a competent and trustworthy adult who will personally undertake to be responsible for the due observance of the rules and regulations governing the use of the License Area.
31. A License Area may not use any amplified music after 9:00 p.m. and shall not at any time disturb the quiet peace, rest, enjoyment, and comfort of persons in the neighbourhood or vicinity. The hours of operation for a Sidewalk Cafe may be the same hours of operation as the parent business; however, the Town may restrict hours of operation to no later than 12:00 a.m. in areas of close proximity to downtown residences.
32. The Town shall deem maximum capacity for Sidewalk Cafes within a linear city block or equivalent as being no more than 10% of available street parking spaces dedicated under Temporary Licenses of Occupation.
33. The Town retains the right to revoke any permission granted under this policy at any time where it is found that the use is creating difficulties deemed unacceptable to the Town.

Mayor

Chief Administrative Officer

SCHEDULE “A”

(Fees for Temporary Licenses of Occupation)

1. *Sidewalk Cafes and Mobile Vendors:*
 - a. a minimum seasonal fee of \$300 OR \$25 per square metre per month for sidewalk and/or right of way occupied by or otherwise rendered unusable by the License Area; whichever is greater, *plus*
 - b. a minimum seasonal fee of \$300 per parking space (or portion thereof) OR \$100 per parking space per month (or portion thereof), whichever is greater, occupied by or otherwise rendered unusable by the License Area.

Mobile Vendor Associations:

- c. a seasonal fee of \$300 applicable to one or each approved Licence Area, effective 2011. The fee is exempted for a Mobile Vendor Association participating in a Community Event.

Merchant Encroachments:

- d. An annual fee of \$25 for all sidewalk and/or rights of way occupied by or otherwise rendered unusable by the License Area.

Street Performers

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|------------|-------|
| e. Daily | \$5 |
| Three Days | \$20 |
| Monthly | \$100 |
| Annual | \$200 |

The fee is exempted for a Street Performer participating in a Community Event or raising funds for a non-profit purpose and at Staff discretion.

Community Events and Non Profit Vendors

- f. Exempt

2. All fees are in addition to required Business License Fees per Town of Golden Bylaw 990 and its successive amendments or replacements.

Staff has the authority to negotiate varying lengths of operation and fees will be calculated dependent upon agreement. Fees are generally calculated on a seasonal basis and will not be prorated due to changes in the length of operation.

Fees are payable upon the issuance of the license and may be modified or waived in special circumstances. Unpaid fees will result in the withholding of the License the subsequent year.