



## City of Moose Jaw POLICY

<b>POLICY:</b>	<b>Extension of Business for Sidewalk, Boulevard and Parking Stall</b>	<b>POLICY NO.:</b>	<b>PDS-001-2021 POY</b>
<b>POLICY Owner</b>	<b>Department of Planning and Development Services</b>	<b>Approved on:</b>	<b>February 28, 2022</b>
<b>Approved by:</b>	<b>City Council Resolution #20</b>	<b>Effective Date:</b>	<b>February 14, 2022</b>
<b>Last Reviewed:</b>	<b>February 14, 2022</b>	<b>Next Review:</b>	<b>February 14, 2024</b>

### 1. Purpose

This policy shall establish guidelines for the commercial use of public sidewalks, boulevards, and parking stalls as an extension to adjacent businesses to enhance the overall image and economic vitality of commercial areas.

### 2. Definitions

Accessory Use – for the purposes of this policy, shall include a Sidewalk Sale, Sidewalk Patio, Parking Patio or Seasonal Boardwalk which is located adjacent to an existing business, or a Public Parking Patio, and may include features on a public Sidewalk, Boulevard, or Parking Stall;

Boulevard – portion of the right-of-way that extends from the edge of the street to the property line of the adjacent property, not including the Sidewalk;

Curb – the dividing line of the street between the portion intended for vehicle use and that intended for pedestrians whether marked with a curbstone or not;

Mobile Concession – means a self-contained, self-propelled (motorized or muscle powered) vehicle (truck or trailer) containing appropriate equipment for the type and method of prepared food served;

Parking Patio – a Sidewalk Patio which has been extended to include temporary conversion of designated Parking Stall(s) located on public streets;

Parking Stall – any portion of a parking area marked by one or more painted lines, number, metre, pole, sign, or other device to indicate that it is intended for the parking of a vehicle;

Public Parking Patio – a Parking Patio which serves as a public seating space and is applied for and maintained by an organization which serves the general public and/or business interests of Moose Jaw (adjacent businesses may not apply). Public Parking Patios are not intended for the consumption of food or drink and may only provide seating; tables are not permitted. Public Parking Patios may only be located in the City's downtown and shall be subject to the same regulations in this policy as Parking Patios unless otherwise specified;

Sidewalk – portion of the right-of-way designed and intended for use by pedestrians;

Sidewalk Patio – a group of tables and chairs and other accessories situated and maintained upon a public Sidewalk, Boulevard or Parking Stall for the consumption of food and beverages sold to the public from, or in, an adjacent indoor restaurant or licensed facility;

Sidewalk Sale – retail products, goods or merchandise displayed and maintained upon a public Sidewalk or Boulevard for the purposes of selling in an adjacent retail establishment;

Seasonal Boardwalk – a platform constructed in a parking stall for the purpose of creating a pedestrian corridor that allows easy movement of sidewalk users around an on-Sidewalk Patio;

Street – a road, alley or other place designed and intended for or used by the general public for the passage of vehicles and pedestrians, but does not include a parking lot, which is either privately or publicly owned;

Vendor – any person(s) who owns and/or operates a Sidewalk Sale, Sidewalk Patio, Parking Patio, or Public Parking Patio.

Vending – engagement in the sale of beverages, food, and other approved products.

### **3. Scope**

Subject to conditions of this policy, public sidewalks, boulevards, and on-street parking stalls may be temporarily used for the purposes of the following:

- Sidewalk Sales;
- Sidewalk Patios;
- Parking Patios;
- Seasonal Boardwalks; and,
- Public Parking Patios

This policy does not apply to vending from mobile concessions. This policy does not apply to private property, special events, or festivals.

Sidewalk Sales, Sidewalk Patios, Parking Patios, and Seasonal Boardwalks shall be permitted in conjunction with a restaurant, retail store, or other relevant commercial establishment for which a valid business license has been issued.

Public Parking Patios shall be permitted as a public space applied for and maintained by a registered non-profit organization.

### **4. Policy**

#### **4.1 General Conditions**

- a) A Business Extension Permit is required prior to commencement of operations, and must be obtained on a seasonal basis;

- b) Summer season shall operate from April 1<sup>st</sup> to October 31<sup>st</sup>, and winter season shall operate from November 1<sup>st</sup> to March 31<sup>st</sup>;
- c) Business Extension Permits shall not have an application fee. Rental of a seasonal parking stall with a parking metre shall have a fee of \$7.50 per day for 1 parking stall plus \$3.40 for each additional parking stall or \$1 100 seasonal rate plus \$500 for each additional parking stall. Parking stalls without parking metres shall reduce above fees by 50%;
- d) The City of Moose Jaw (the City) and public utility agencies may access the approved area for the installation, maintenance and repair of any utility or infrastructure installation as necessary. In case of emergency, no notice may be given. Vendors are responsible for removing and reinstalling the approved Accessory Use at their own expense;
- e) Applications for a Business Extension Permit must include the following information:
  - i. Site plan drawn to scale, which shows delineated areas and proposed locations of any planters, awnings, tables, chairs, fences, and all other accessories; the site plan must include locations of utility poles, hydrants, bus shelters, parking metres, building entrances and exits, width of all pedestrian passageways and any other utility or infrastructure related installations;
  - ii. Proof of liability insurance with a minimum of \$5,000,000 liability. The insurance policy must list the City as an additional insured and the liability must indemnify the City safe and harmless from any and all claims of injury to persons or damage to property attributable, in whole or in part, to the existence, location and operation of the Accessory Use in the public right-of-way.
  - iii. Current photos of the existing property and proposed location.
- f) The City reserves the right to request additional information not listed above to confirm that all bylaw and policy requirements are adhered to. Plans which are not drawn accurately and to scale, or do not include all required information will not be accepted;
- g) Applications for Public Parking Patios, or Accessory Uses which include the use of Parking Stalls or Sidewalks beyond the frontage of the subject property, must obtain written approval from the adjacent property owner;
- h) Alcoholic beverages may be served provided the associated restaurant is licensed to serve alcohol and approval has been received from the Saskatchewan Liquor and Gaming Authority;
- i) Applications may be referred to relevant agencies for review and approval;
- j) All applicants for a Business Extension Permit must hold a valid City of Moose Jaw Business License for the associated business, or in the case of a Public Parking Patio, applicants must be a registered non-profit organization.
- k) In addition to the terms and conditions in this Policy, the operating Vendor must comply with all other applicable City bylaws and policies. The City reserves the right to cancel any permit upon 24 hours notice if any violations are observed;

#### **4.2 Sidewalk Patio and Parking Patio Features**

- a) Visual screening may be allowed at the discretion of the Engineering Department/Public Works;
- b) All lighting must be temporary in nature and shall not project onto adjacent properties;

- c) Umbrellas shall be located entirely within the approved Accessory Use area;
- d) Furnishings including tables, chairs and decorative accessories must be constructed of weather resistant materials and shall be neatly and fully contained within the approved area;
- e) The entirety of the Accessory Use must be removable and not permanently fixed in place. All features must be removed during off-season or after the approved Accessory Use ceases operation.
- f) Fencing may be required by the City or other approving authorities. Fencing for Sidewalk Patios must not exceed 1 metre in height. Any fencing located within 6 metres of an intersection shall only be permitted at the discretion of the Engineering Department/Public Works.
- g) Excluding Public Parking Patios, Vendors must provide a public washroom.

#### **4.3 Prohibited Locations**

- a) The City maintains the right to refuse issuance of a Business Extension Permit in instances where it is felt that it may impact public welfare or safety and/or constitute a nuisance;
- b) Sidewalk Sale, Sidewalk Patio, Parking Patio or Seasonal Boardwalk shall not be located adjacent to a street with a speed limit greater than fifty (50) kilometers per hour.

#### **4.4 Operating Requirements**

- a) The Accessory Use shall not operate longer than the operating hours of the associated business;
- b) A minimum clear pedestrian passage of no less than 1.5 metres shall be maintained, and free of any physical obstructions such as utility poles, fire hydrants, bus shelters, parking metres, trees, temporary signs, benches or garbage receptacles;
- c) The Accessory Use must be wheelchair accessible;
- d) Vendors must allow proper drainage and shall ensure that drainage to catch basins remains unrestricted by the accessory use. Catch basins must be kept clear of debris and refuse at all times;
- e) The Accessory Use must contribute positively to the street activity and perception of the surrounding area. Inappropriate patron or staff behaviour or management practices or increases in calls for service from Police, Fire, or any other agency shall be grounds for immediate termination of the Business Extension Permit;

#### **4.5 Parking Patios and Seasonal Boardwalks**

- a) Parking Patios and Seasonal Boardwalks must operate solely within the confines of the designated parking space(s) and the adjacent sidewalk;
- b) The City reserves the right to determine how many Parking Patios and Seasonal Boardwalks are suitable per block. Approval will be granted on a first come first serve basis;
- c) Parking Patios and Seasonal Boardwalks are prohibited in a loading zone or pedestrian ramp, and must be a minimum of 6 metres away from any intersection, bus shelter or bus stop;
- d) Significant vertical design elements shall be included along the outer edges of Parking Patios and Seasonal Boardwalks (i.e. planters, fences);

- e) All traffic safety features must be contained within the approved Parking Patio or Seasonal Boardwalk and are at the sole cost of the Vendor. Parking Patios and Seasonal Boardwalks must provide:
  - i. Barriers that are placed at both ends of the Parking Patio and Seasonal Boardwalk to the satisfaction of the Engineering Department/Public Works. The barrier that faces oncoming traffic must be angled to divert vehicular traffic onto the roadway. If using a curb stop barrier, 1 metre distance must be maintained from the edge of the Parking Patio to the barrier.
  - ii. Traffic glow posts that must be placed along the length of the Parking Patio and Seasonal Boardwalk;
  - iii. Fencing is required around the perimeter of the Parking Patio and Seasonal Boardwalk. Fencing material shall be robust in nature as determined by the Engineering Department/Public Works
- f) Seasonal Boardwalks, and Parking Patios that construct decking, are subject to the following design regulations:
  - i. Must be designed by a Saskatchewan licensed designer and be to the satisfaction of the City;
  - ii. The surface shall have no protrusions (i.e., screws, nails, planks, etc.) and be made of timber or composite decking affixed with screws;
  - iii. Decking must be tightly spaced;
  - iv. Any platform or decking must not be attached to the street and must be flush with the curb;
  - v. Barrier free access must be provided from the Seasonal Boardwalk to the entrance of the building from a location perpendicular to the sidewalk.

#### **4.6 Heating and Tent Regulations**

- a) Propane or electric heaters are acceptable for Sidewalk Patios and Parking Patios pursuant to the following safety regulations:
  - i. If using electric heat, the heater must be used as per manufacturers instructions and be maintained in an area 1 metre from combustible material.
  - ii. Electric heaters should not present a trip hazard and should be plugged directly into the source or into an extension cord that is rated for the appliance and approved by ULC or CSA.
  - iii. Cables on the ground shall be placed in trenches or protected by covers;
  - iv. Propane heaters must be placed 1.5 metres from any combustible material;
  - v. Shelter material must meet CAN / ULC-S109 or NFPA 701 standards for flame spread ratings.
- b) Tents and wind barriers may be acceptable for Sidewalk Patios or Parking Patios pursuant to the following safety and design regulations:
  - i. If using propane heat in a tent, the tank and heater must be located outside of the tent, with heat pumped into the tent and products of combustion released outside;
  - ii. Kerosene and radiant heaters are prohibited in a tent;
  - iii. All tents shall be made of flame retardant material and flame retardant material shall be renewed as often as is required to ensure it will pass the match flame test in NFPA 705;
  - iv. Smoking and open flame shall not be permitted in a tent;

- v. Tents shall be designed to and installed in conformance with the National Building Code (NBC);
- vi. Shelter material must be transparent/translucent;
- vii. Business name and logo may appear on shelter material, but other banners and signs are generally prohibited;
- viii. Wind barriers must be equal to or less than 1.8 metres in height;
- ix. Tents shall have one side open or shall be provided with at least one exit. Exits cannot swing into the right of way;
- x. The minimum size of an exit shall be 0.8 metres x 2.0 metres;
- xi. Flammable materials cannot be within 3 metres of the tent;
- xii. Each tent shall have a minimum of one Type 2A10 BC (Dry Chemical) extinguisher.

#### **4.7 Winter Regulations**

- a) Only Sidewalk Patios and Sidewalk Sales are permitted during winter seasons.
- b) Any Sidewalk Patio or Sidewalk Sale that obtains a seasonal winter Business Extension Permit are pursuant to the following regulations:
  - i. Vendors must remove snow from around the perimeter of the accessory use and maintain a safe walking surface free of snow;
  - ii. Vendors must regularly inspect and remove accumulated snow from awnings or overhead tent surfaces to prevent stress on the structure;
  - iii. The Accessory Use must be periodically utilized or removed during long periods without use. If an Accessory Use remains on the Sidewalk or Boulevard during long periods without use, the City may request removal of the Accessory Use and/or cancel the Business Extension Permit.

### **5. Responsibilities**

#### **5.1 Planning and Development Services Department**

- a) Determine and/or approve sites appropriate for Sidewalk Sales, Sidewalk Patios, Parking Patios, Seasonal Boardwalks and Public Parking Patios in accordance with this policy and the Zoning Bylaw.
- b) Ensure applications are reviewed by appropriate departments within the City.
- c) Ensure Vendor compliance with the conditions of this policy.
- d) Ensure all Vendors are licensed or registered.

#### **5.2 Engineering Department/Public Works**

- a) Collect all respective parking fees.

#### **5.3 City Council**

- a) Approve amendments to this policy.

**APPROVED**

**City Manager's Signature:**

*Jim Puffalt*