

## THE VILLAGE OF KASLO Resolution 124/2018

**POLICY TITLE:** Temporary License of Occupation (boulevards, rights-of-way, parking spaces) in the Commercial Centre

**POLICY STATEMENT:**

The use of a portion of Village boulevards, rights-of-way and street parking spaces may be permitted for occupation at the discretion of Council, **principally for the purpose of facilitating food and beverage service patios.**

**POLICY BACKGROUND:**

*A maximum of ten (10) parking stalls or 20 foot public parking frontage units will be made available within the Heritage Commercial Core Area for such agreements. For clarity, this is a total of ten (10) such units across all agreements in total, not per individual license.*

*This number is limited by the pressures on public parking during the peak tourist season and the Village reserves the right to regularly review the cost-benefit impacts of these licenses in terms of parking costs vs. business benefits.*

*The onus for respecting noise, traffic and parking restrictions in the downtown area is on the business community and its employees. All should be mindful of the following:*

- a) Business owners and employees should use the publically available parking area behind the Roman Catholic Church on 5th Street during the high season;*
- b) Business owners who believe that a noise bylaw exemption is required must apply for one separately – license agreements will require that they respect the Village Noise bylaw restrictions; and*
- c) Serious bylaw or civil traffic violations should be formally reported to either the Village or RCMP.*

**POLICY OBJECTIVE:**

1. To establish guidelines and give direction for the orderly establishment and use of Village boulevards, right-of-ways and street parking spaces for a variety of temporary uses to ensure appropriate location and assurance of public safety and convenience.
2. To encourage businesses that hold seasonal licences to maximise the use and function of the parking spaces during the peak tourism season.
3. To encourage small businesses with limited operating hours to consider partnership arrangements around sharing and coordinating seasonal licences for mutual benefit.

**PROCEDURE:**

1. The Applicant submits an application to the Village which must include:
  - 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 encroachment (intended use of the occupied space).

2. The application will be reviewed by staff to ensure it is complete and meets policy intent. Staff may conduct a site visit as part of the review process. Staff will advise Council of applications not meeting the requirements of this policy and recommend rejection:

a) Council will determine if broad public notice notifications are required for an application at its discretion;

b) Law enforcement and other applicable public agencies will be sent a notice prior to Council decision, with a deadline for feedback.

3. Once approval in principle is granted by Council, the applicant must:

a) Complete a license to occupy to the satisfaction of the Village CAO or Deputy Clerk;

b) Submit payment of the established fees;

c) Furnish proof of the required \$5,000,000 liability insurance policy, naming the Village as an additional named insured;

d) Furnish proof of compliance with all Provincial and Municipal licensing and regulations when required.

4. Licenses may be issued for a maximum of five years, renewable and payable annually.

5. A licence area will generally not be permitted where it may interfere with safe vehicle and pedestrian movements including adjacent to a highway, within 6 metres of a stop sign, or in a location where visibility or safety is deemed an issue.

6. Licence areas may use a combination of Village boulevards, rights-of-way and street parking space(s) or a portion thereof as required. 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.

7. The license area agreement, if approved, is only in effect between the dates of **April 15<sup>th</sup> and October 15<sup>th</sup> annually**, with the license holder required to have all encroachments dismantled and stored offsite at their own expense during the off-season.

8. This policy does not permit or cover applications for:

a) Private or commercial parking that exceeds one (1) parking stall or 20 feet of unmarked public parking frontage.

- b) Any contiguous public parking stall licence area that exceeds three (3) parallel or angle-parking stalls.
9. a) New proposals for sidewalk cafes or other sidewalk temporary commercial displays must seek written permission from the Village; any proposal that includes permanent or semi-permanent installations or structures requires a full licence of occupation application submission.
- b) Any sidewalk café or other sidewalk temporary commercial display that does not have a formal licence of occupation or minimal liability waiver on file with the Village is unauthorized and in non-compliance with the municipal Street and Traffic Bylaw.
10. A licence area shall not extend onto the Village boulevards, rights-of-way and street parking space(s) in front of an adjacent business unless written agreement from the adjacent business is provided to the Village.
11. The Village 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 Village, including:
- a. Failure to respect seasonal restrictions on the license.
  - b. Receipt of any concerns with respect to public safety or any and all regulatory infractions reported to the Village by regional, provincial or federal authorities.
  - c. Encroachments beyond the agreed license area or encroachments within the license area that reduce or eliminate required pedestrian access;
  - d. Alteration of licence area specifications without municipal consultation or consent;
  - e. Severe under utilization of the license area over the season when demand for parking spaces is extremely high.

Such scenarios may result in the revocation of the license the subsequent year and a 2 year moratorium on the licensed area's availability to that business.

## **FOOD AND BEVERAGE SERVICE PATIOS**

12.

- a. The proponent must submit drawings that meet the building code for constructed patios including requirements for disabled access. Design and colour schemes **must** conform to Official Community Plan form and character guidelines for the Heritage Commercial Core. *Design specifications and patio location must not change between municipal approval and construction;*
- b. The minimum safe width for a two lane road is 20' (6.1 metres). The road allowance, including parking space/intersection shoulders, is 32.8 feet (10m) in the Commercial Centre. Average car width is 1.8m (5.9 feet). **This means that constructed parking spot patios or boardwalks, including overhangs, cannot extend more than 6.4 feet (1.95m) toward the centre line from the curb;**
- c. Pedestrians must be provided with a minimum of 5 feet (1.5m) of sidewalk or constructed boardwalk through or past the entire patio license area.

13. A building permit is required for the first year's use of a constructed patio and in subsequent years the inspector completes an inspection once the patio is assembled to confirm the patio is safe and functional. Patios cannot be used until the inspection has occurred.

**FEE:**

14. The licensee is required to pay the established fee for use of the licenced area, such fee to be based on the following rates:

a. a base fee calculated one of the following ways, depending on the type of license area required:

(i) an annual license fee to be calculated at a per square metre rate of the licensed area based on: - 10% of the assessed value of the land adjacent (or in near proximity) to the desired public lands to be occupied or - a minimum annual fee of \$10 per square meter, whichever is greater;

(ii) an annual fee of \$550.00 per parking stall or 20 feet of unmarked public parking frontage rendered unusable by the issuance of the licence.

b. \$92 plus title fee for constructed patio inspection by the building inspector in the first year and \$50 for subsequent annual inspections, if applicable;

c. \$100 application fee for adjacent property owner notification process if determined in the public interest by Council;

d. the annual fee as calculated in items 11(a) and (b) above shall be calculated at the commencement of the agreement and shall remain in effect for each and every year the agreement is in place unless subsequent modifications or encroachments render additional parking spots unusable over the course of the agreement;

e. in the event of modifications or encroachments that, in the view of Council or the Chief Administrative Officer, render additional parking spots unusable, the Village shall

- (i) increase the annual fee in the agreement by the appropriate amount under section 14(a) for the remainder of the agreement; OR
- (ii) terminate the agreement at the end of the season under section 11;

f. All current year fees are payable upon the issuance of the license;

g. Application fee must be rendered at submission of a full and complete application, along with RDCK building permit application fees if applicable.

h. Unpaid fees will result in the withholding of the business license the subsequent year and a 2 year moratorium on the licensed area's availability to that business.

**REVENUE:**

15. License revenue, less the application and building inspection fees (if applicable), may be directed toward seasonal Street and Traffic Bylaw Enforcement or the long-term provision of public parking facilities.

**UNUSED LICENCE SPACE**

16. The Village reserves the right to utilize and authorize unused portions of parking spaces within License of Occupation areas for the following municipal purposes:

- (i) seasonal bike racks;
- (ii) public parking for motorcycles;
- (iii) decorative planters or other temporary, seasonal infrastructure.

17. Samples of sidewalk patio best practices are appended to this policy in Schedule 'A' as a guideline for businesses.

THIS POLICY WAS CONSIDERED AND ADOPTED BY COUNCIL ON SEPTEMBER 18<sup>th</sup> 2018  
RESOLUTION

SUPERCEDES: 139/2015

## Schedule 'A'



Railed licence area within sidewalk leaving sufficient area for pedestrians (5 feet/1.5m) . A constructed boardwalk may be necessary to meet this requirement.

*Low impact on façade.*



Unbounded licence area within sidewalk leaving sufficient area for pedestrians (5 feet/1.5m).

*No impact on façade.*



Railed/ bounded licence area in parking spaces leaving sufficient sidewalk width (5 feet/1.5m or greater) for pedestrians.

Patio or boardwalk cannot extend more than 6.4 feet (1.95m) toward the road centre line from the curb;

*No impact on façade.*

*Patios with roofs are discouraged due to their impact on heritage façade form and character over the peak season – applicants must make a case for their necessity and the approved design must meet BC Building Code. Awnings (see Official Community Plan for guidelines), patio umbrellas and sun sails are preferred solutions.*



**Village of Kaslo**  
**APPLICATION FOR A TEMPORARY LICENCE OF OCCUPATION ON MUNICIPAL PROPERTY, ROAD ALLOWANCE OR PARKING STALL (COMMERCIAL CENTRE)**

**PLEASE CHECK APPROPRIATE BOX:**

Is this a New Application

Or a

Renewal of Existing Licence

**Renewals - Please let staff know if there are any design changes since last season. Fees for next license may change.**

PERIOD OF OPERATION (PLEASE CHECK APPLICABLE YEARS REQUESTED)

2019 Season Yes \_\_\_ No \_\_\_ 2020 Season Yes \_\_\_ No \_\_\_ 2021 Season Yes \_\_\_ No \_\_\_ 5 YEAR LICENCE Yes \_\_\_ No \_\_\_

Name of Business:			
Physical Address:			
Mailing Address:			
Legal Description (for office use only):			
Heritage Permit Area (for office use only):			
Applicant Name:		Property Owner (if different than applicant)	
Main Contact Telephone:		Email Address:	
Hours of Operation:		Number of Tables:	
Days of Operation:		Number of Chairs:	
Dimensions of Patio:		Fence or Railing:	
Number of parking stalls or feet of frontage required (specify):		Other:	
Amenities (flower boxes, umbrellas, heaters, etc.):			

<b>LICENSE TO OCCUPY SUBMISSION CHECKLIST</b>			
<b>COPY OF BUSINESS LICENCE</b>		<b>PHOTOGRAPHS OF BUILDING EXTERIOR</b>	
<b>AREA SITEPLAN</b>		<b>CONSTRUCTION SPECIFICATIONS (IF APPLICABLE)</b>	
<b>APPLICATION FEE</b>		<b>LETTER OF INTENT</b>	

**Refer to the Village of Kaslo Temporary License of Occupation Policy [124/2018](#)**

If the applicant is not the registered owner, complete the owner information and attach a letter of authorization from the property owner(s) or have the owner sign the following authorization:

As owner(s) of the land described in this application, I/we hereby authorize \_\_\_\_\_ to act as applicant in regard to this application for licence to occupy municipal road allowance or sidewalk area.

Signature: \_\_\_\_\_ Signature: \_\_\_\_\_

Date: \_\_\_\_\_ Date: \_\_\_\_\_

I have attached the required documentation, as noted on the Licence to Occupy Submission Checklist and hereby agree to submit further information deemed necessary for processing this application.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

*This application will not be accepted unless it is complete and the required documents are attached.*