

# Use of Public Spaces and Sidewalks Policy

## I. Intent of policy

The intent of this policy is to recognize that the use of public spaces and sidewalks:

- A. Is property that is owned by the inhabitants of the town of Bridgton and thus should be reviewed and a nominal fee assessed
- B. Should respect the private property owners who pay taxes and use their properties for commercial uses
- C. Should be planned to allow free, safe and convenient access of vehicles and pedestrians and not constrict abutting commercial or residential properties
- D. Is part of a healthy and vibrant downtown community
- E. Draws attention to our core business district to the thousands of vehicles that pass through our community daily
- F. Is encouraged

## II. First Amendment rights; personal freedoms

This policy shall be interpreted in a manner consistent with the First and Fourteenth Amendments to the United States Constitution

## III. Definitions

- A. "Adjacent property" means and includes the property abutting the margin of and contiguous to the public places.
- B. "Applicant" means the individual or entity that has applied for a permit to use the public place on their or another individual's or entity's behalf.
- C. "Authorizing official" collectively means the Code Enforcement Officer, the Director Planning, Economic & Community Development, the Director of Public Works, the Fire Chief, and the Chief of Police or his/her designee
- D. "Pedestrian zone" means the area or space of the public place or roadway that is reserved for the exclusive use of pedestrians

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- E. "Public place" means public right-of-way and the space above or beneath its surface, whether or not opened or improved, including streets, avenues, ways, boulevards, drives, places, alleys, sidewalks, planting strips, squares, triangles, and plazas that are not privately owned.
- F. "Sidewalk cafe" means a portion of the public place in which tables and chairs are placed for the use of patrons consuming food or beverages including alcoholic beverages that is operated by a food service business located on abutting property.
- G. "Sidewalk sale" means the outdoor display or peddling of goods to the public from a public or private place next to an adjacent property selling said goods
- H. "Vending" means to sell, offer for sale, solicit orders, display, rent, lease, or otherwise peddle any good, ticket, thing, or service of any kind; to the public from a public place;
- I. "Vending cart" means a movable cart that is used to serve, vend, or provide food, nonalcoholic beverages, or other goods.
- J. "Vending vehicle" means a registered vehicle that is used to serve, vend or provide food, nonalcoholic beverages or other goods

### **IV. Permit—Required**

It is unlawful for anyone to locate a vending cart, a vending vehicle, without first securing a written permit from the Authorizing Official and paying any requisite fees to the town of Bridgton.

### **V. Permits covered by this policy:**

- 1. Use of sidewalks for vending or vending cart
- 2. Use of public parking/lots (only) for vending vehicles

### **VI. Scope of Review**

- A. If the application conforms to the requirements of this ordinance and the proposed use is consistent with the rights of the public, the authorizing official may approve the application; fix the duration and the terms or conditions of the permit; and when required, upon the applicant's furnishing of a deposit or surety bond, insurance, covenant, and indemnification, and payment of all required fees; issue the permit within 30 days of receipt. The original permit shall remain in the custody of the town, copied to the Board of Selectmen, and a copy shall be given to the permittee which shall be posted or available on the vending cart/vehicle.

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- B. The permit shall specify the portion of the public place that is allowed to be occupied, the dates or days and hours of use. The permit shall only be valid for the portion of the public place, the dates or days and hours of use, and the use as identified on the permit.
- C. Factors for consideration in evaluating an application for a permit include, but are not limited to, the applicant's constitutional rights and the abutter's property rights; the site and its terrain; the public and private benefits of the proposed use; and the impact of the proposed use on the following:
1. The paramount purpose of streets for travel and transportation;
  2. Utilities; authorized secondary street uses; and any use being made by the public of the site;
  3. Fire access and public safety;
  4. Uses under permit; street trees; and other proposed or past uses of the site;
  5. Rights of light, air, and access and lateral support of abutting properties and on access or easements of properties dependent upon the public place for access;
  6. The use of the pedestrian zone to allow free, safe and convenient access (minimum 40" clearance);
  7. Drainage, surface and underground; springs and watercourses; and the stability of soils; and
  8. The goods or services being sold in the vending cart located appropriately; that is, by example, ensuring the vending is not located next to an adjacent property selling similar goods or services, or, the sale of food in a vending cart next to a sidewalk café.
  9. Vending vehicles may not use on-street parking spaces, spaces where no parking is allowed, or on designated disabled parking spaces.
  10. Where applicable, existing town land use, transportation, open space, shoreland zoning, and policies contained in the most recently approved Comprehensive Plan.
- D. All other uses of public spaces noted below may proceed without a permit. The criteria listed in VI.D. shall also be used to evaluate any of the below listed uses of public space by the Code Enforcement Officer or the Police Chief, or his/her designee in response to an inspection or observation.
1. Newsstand;
  2. Use of sidewalks for
    - i. sidewalk cafe,
    - ii. sidewalk sales,

- iii. temporary placement of a construction dumpster, scaffolding, construction equipment, and outdoor sales of goods or any construction activity that utilizes a public space
  - iv. Other uses not otherwise listed herein
3. Outdoor entertainment

**VII. Indemnity deposit—Escrow—Surety bond**

- A. If the authorizing official determines that there is a substantial risk of injury, damage, or expense to the town or probable town expenditures arising from an applicant's proposed use of any public place; the authorizing official may require the applicant to make an indemnity deposit with the Finance Director in an amount based on the official's estimate of the injury, damage, or expense to the town; or cost of restoring the public place if a mishap or accident occurs. B. The indemnity deposit shall be used to pay the cost of: restoring the public place: removing any earth or other debris; replacing or repairing any damaged utility or trees in the public place; completing any work left unfinished; resetting any traffic control devices; engineering, and any other expense that the town may sustain in conjunction with the permitted work and. The balance of the cash indemnity deposit, if any, after all deductions shall be returned to the applicant or permittee. If the indemnity deposit is insufficient, the applicant or permittee shall be liable for the deficiency.
- B. The authorizing official may authorize the filing of a surety bond in accordance in lieu of making all or part of an indemnity deposit and may suspend its application or waive compliance.

**VIII. Liability insurance**

A permittee shall be required by the authorizing authority to obtain and maintain in full force and effect, at its own expense, public liability insurance in an amount sufficient to protect the town from all potential claims and risks of loss from perils in connection with any activity that may arise from or be related to the permittee's activity upon or the use or occupation of the public place allowed by the permit and claims and risks in connection with activities performed by the permittee by virtue of the permission granted by the permit. The insurance policy shall: be in effect for the duration of the permit; name the "town of Bridgton, its elected and appointed officers, officials, employees, and agents" as additional insureds for primary and non-contributory limits of liability subject to a Separation of Insureds clause; apply as primary insurance regardless of any insurance that the town may carry; and obligate the insurance company to give notice to both the authorizing official and the Town Manager at least 30-calendar days before any cancellation of the policy.

The authorizing official, in consultation with the Town Manager, shall establish the amount of the insurance, and shall require that the insurance be provided prior to issuance of the permit.

The town requires insurance coverage to be placed with an insurer admitted and licensed to conduct business in the state of Maine.

### **IX. Permit duration, revocation, and public place restoration**

- A. All use authorizations approved shall be of a temporary nature and shall vest no permanent right; and may in any case be revoked upon 30-calendar days notice; or without notice, in case any use or occupation is dangerous or any structure or obstruction permitted is insecure or unsafe; or is not constructed, maintained, or used in accordance with the provisions of the permit.
- B. If a permit to use a public place is revoked or terminated, the public place shall be restored to the condition that existed prior to use occurring in the public place.

### **X. Exemptions and Policy Conflicts**

- 1. This policy is not intended to apply to customary uses of public ways for commercial/residential deliveries of goods to an abutting property to the street or sidewalk.
- 2. This policy shall not conflict with other policies or ordinances regulating the use of public spaces for events, nor to be in conflict with policies and ordinances regulating signs. Said ordinances override the policies stated herein.
- 3. All municipal uses of the rights of way are exempt from this policy.

### **XI. Decisions—Review or reconsideration**

A person aggrieved by the authorizing officials' decisions may timely request the Bridgton Select Board to review the decision, or to reconsider the decision upon showing the Select Board good cause.

### **XII. Penalty**

Any act made unlawful by this policy and any violation of this policy shall be punishable by a fine of not less than \$50.00 and not more than \$100.00 for each offense. Each day that such unlawful act or violation continues shall be considered a separate offense.