



**Ashland Parks and
Recreation Commission**

COMMISSION POLICY

TITLE CALLE GUANAJUATO COMMERCIAL USE POLICY	PAGE 1 of 7	POLICY No. 101
EFFECTIVE DATE May 1990	REVISED DATE February 25, 2019	

APPROVED BY COMMISSIONER ACTION

*December 19, 2016; Agenda Item: VI.(a.) Calle Guanajuato Amended Policy Approval
February 25, 2019; Agenda Item: VI.(a.) Calle Guanajuato Commercial Use Policy Approval*

The Charter of the City of Ashland, **Article XIX – “Park Commission,”** gives the Ashland Parks and Recreation Commissioners the “*power to formulate and adopt rules and regulations for their government.*” This authority allows Commissioners to adopt rules and policies through a public process in order to provide organization, aide in decision making and to provide consistent regulation for park and facility uses in order to achieve the goals of the Ashland Parks and Recreation Commission (“APRC”) and protect people, the environment and assets and to ensure fair and equal use of parks by all users.

PURPOSE

The Calle Guanajuato is an asset of the APRC that provides, among other public benefits, space for restaurant seating and concessions adjacent to Ashland Creek and within proximity to local restaurants, Ashland Shakespeare Festival, Downtown Ashland and Lithia Park. Permitted commercial activity on the Calle Guanajuato shall be limited to the uses specifically designated in this policy.

Permits may only be issued for concessions by the Lithia Artisans Market and for adjacent restaurants. Permitted sites on the Calle Guanajuato are restricted by the physical limitation of the space, and the potential that the demand for space may be greater than the space available. The APRC has created the Calle Guanajuato Commercial Use Policy (the “*Policy*”) to regulate the allocation of physical space to qualifying permittees, as described herein. Permits may be awarded on an annual basis as described herein.

CALLE GUANAJUATO COMMERCIAL USE POLICY OBJECTIVES

The purpose of the Policy is to assist the APRC in the pursuit of the following equally-important objectives:

- I. To provide a process for the review and approval of applications for

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concessionaires of the Lithia Artisans Market and restaurateurs of adjacent businesses;

- II. To ensure that adequate access is achieved through the Calle Guanajuato for pedestrians and emergency vehicles;
- III. To attempt to achieve cost recovery for APRC; and,
- IV. Maintain an appealing extension of Lithia Park into downtown

GENERAL PROVISIONS

Application Process

- I. Any Calle Restaurant or Landlord/Owner desiring a designated site on the Calle Guanajuato must file annually a non-refundable application with APRC staff prior to the stated deadline.
- II. The application process and criteria for submittal shall be as follows:
 - a. Prior to the beginning of the application review process, each applicant seeking a designated site on the Calle must file an application with APRC staff. The application must be submitted prior to the 2nd Friday of January of each calendar year, stating the intent of the applicant to:
 - i. Seek a permit for the same designated site as the previous year; and/or,
 - ii. Seek a permit for a designated site location that differs from the applicant's site for the previous year.
- III. The application material shall include the following:
 - a. A clear identification of the requested designated site as delineated in the official boundary map;
 - b. A simple site plan showing how restaurant equipment and/or concession stands will be organized within the boundary of the designated site;
 - c. A statement detailing how each of the specific approval criteria of the Policy will be met; and,
 - d. An application fee as adopted in the "Fees and Charges Schedule" of APRC.
- IV. Application review requirements:
 - a. Absent a timely-submitted application, APRC will not hold a previously permitted site and seniority shall be forfeited for that site.

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- b. Notwithstanding the Cancellation section of this ordinance, no late applications will be accepted.
- c. Incomplete applications, or those that do not substantially meet the criteria, will be returned to the applicant without processing.
- d. Permit approvals for each season will be issued no later than February 28th of each year.
- e. The official boundary map of the Calle Guanajuato will delineate the designated site for all concession and restaurant space.
- f. A permit for a restaurant or concession shall be nontransferable between restaurateurs and shall be valid exclusively for one season in a single calendar year. A Landlord/Owner may take over the already issued license if another restaurant will be occupying the space within a 3-month period (during the season). The Landlord/Owner must also pay any outstanding fees for the designated site.
- g. No qualifying Calle Restaurant may hold or be issued more than one permit.

CONDITIONAL USE REVIEW CRITERIA

In considering applications, staff shall review the applicant's compliance with applicable City ordinances and regulations as well as the following criteria:

- I. Restaurant proximity shall constitute a major determining factor for a designated site on the Calle Guanajuato. Applicants that meet the adjacency standard for a designated site shall have preference during review over those who do not.
- II. When two or more applicants make requests for the same site or overlapping designated sites, restaurant seniority, as defined in the definitions of this policy, shall take precedence in determining which applicant receives priority consideration.
- III. Designated sites shall be used for their permitted use only (either restaurant or concession space). In the event that a site designated for restaurant use remains unused after permit issuance, the site may be made available to the Lithia Artisans Market.
- IV. The applicant must be in good standing with APRC and the City, with no active enforcement actions.
- V. The applicant must demonstrate through a simple site plan that they have the ability to carry out the requested operations without violating the public walkway or open space through the Calle Guanajuato.

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- VI. A Calle restaurant and/or Landlord/Owner with singular access onto the Calle Guanajuato will have the first right of refusal for any seating immediately adjacent to their building as long as it does not interfere with the already established concessionaire areas.

VII. Accessory Regulations:

- a. **FIRE AND LIFE SAFETY.** Concessionaire shall comply with any and all fire and life safety guidelines, recommendations and requirements issued by the City of Ashland Fire Marshal, including, but not limited to the following:
- i. Maintain all required fire and emergency access areas;
 - ii. Ensure that permitted restaurant equipment does not encroach upon or obstruct public walkways or open space areas while maintaining a clear eight (8) foot pathway for emergency vehicles as approved by the City of Ashland Fire Marshal;
 - iii. Maintain a clear, unobstructed space around any fire hydrant as required for fire safety;
 - iv. Have available and maintain such fire extinguishers as determined by the Fire Marshal;
 - v. Strict adherence to the APRC prohibition on smoking. Smoking is not permitted on the Calle Guanajuato under any circumstances; and
 - vi. No use of any bottled gas, electrical devices, or hazardous materials or hazardous substances without prior approval by the Ashland Fire Marshal. [For purposes of this License "Hazardous Substance" or "Hazardous Material" means any hazardous, toxic, infectious, or radioactive substance, waste, or material as defined or listed by any local, state or federal environmental law.]

PERMIT/CONTRACT AWARD PROCESS

- I. A permittee who meets all of the approval criteria for a conditional commercial use permit will be required to enter into a contract with APRC for the use of the permitted site and will be required to provide the information required for the execution of the contract, as provided by APRC staff:
- II. Contract will be awarded by the Commissioners by the 28th of February each year.

RESTAURANT AND CONCESSION FEE SCHEDULE

- I. The Commissioners shall review and may adjust the seasonal square foot rental rate on the Calle prior to February 28th each year.

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- II. Payment for approved permits must be made in full by the second Friday of May each season, unless otherwise stated by the Commissioners during fee schedule and operating season review.

- a. If fees are not received as described above, the permit shall be revoked.

OPERATING SEASON

Due to various considerations, the season of operation for the Calle Guanajuato may vary from year to year. If the Commissioners do not approve a particular period of operation prior to February 28th, the default season of operation shall be from Memorial Day to Labor Day.

RESTAURANT CANCELLATION/REVOCATION.

- I. A permit issued for restaurant use may be canceled at the request of the restaurant owner. In such a case, if the season has not begun, the site permit fee will be refunded if already paid. If the season has already begun, the fee will be pro-rated for the time used.
- II. Should a restaurant abandon, or cancel, a permitted site, the site shall become available immediately, and a time frame for new applications will be delineated by APRC staff. The designated site shall then be awarded consistent with the criteria of the competitive process under Application Review contained in the Policy.
- III. APRC reserves the right to revoke any restaurant's permit for a designated site at any time if that individual restaurant does not conform to applicable law, including but not limited to the rules and regulations established by the Ashland Parks and Recreation Commission, the City of Ashland, Jackson County Health Department and the Oregon Liquor Control Commission.
 - a. If an application is revoked prior to the start of the season, permit fees shall be refunded.

SITE SHARING

- I. Restaurant applicants who receive a permit for a designated site have the ability to share their space with another restaurant that meets the criteria of this policy.
- II. A restaurateur who shares space may do so without forfeiting seniority.
- III. Site location sharing may take place at any point during the year; however, only one applicant may hold a permit for a particular designated site and that applicant shall be sole beneficiary of any seniority for the season.
- IV. Applicants must note on their applications if they are planning to share the site with another restaurateur.
 - a. Applicant or permittee shall not sub-lease a designated site without APRC staff approval.

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DEFINITIONS

- I. **Adjacency:** is contiguous ground floor access onto the Calle Guanajuato from a Calle restaurant with direct access the Calle Guanajuato.
- II. **Applicant:** a person or entity seeking license from APRC for a concession or restaurant permit.
- III. **Boundary Map:** is the most current map that delineates areas for both restaurant seating and concession operations.
- IV. **Business License:** a certificate issued by the city authorizing the holder to conduct specified business activity within the City of Ashland.
- V. **Calle Guanajuato:** the improved surface area directly behind the plaza businesses and adjacent to Ashland Creek being bounded by the flood wall on the west side, the back of the Calle businesses to the east, Winburn Way to the south and North Main Street to the north.
- VI. **Calle Restaurant:** a restaurant business operated all, or in part, out of a building abutting the Calle Guanajuato.
- VII. **Concession:** any licensed retail sales operation on the Calle Guanajuato conducting sales using a temporary table, stand, cart, or similar equipment.
- VIII. **Concessionaire:** a licensed retail operation on the Calle Guanajuato.
- IX. **Designated Site:** is the useable space or area on Calle Guanajuato which has been allocated for individual concession or restaurant use by the Ashland Parks and Recreation Commission.
- X. **Employee:** all persons, including proprietors, working on the premises of a Calle business.
- XI. **Landlord/Owner:** a person who rents a building to a tenant on the Calle Guanajuato.
- XII. **Owner of Record:** the person, or entity, in which legal or equitable title rests for private properties directly adjacent to the Calle Guanajuato.
- XIII. **Public Walkway:** the 8-foot meandering brick walkway through the Calle Guanajuato.
- XIV. **Restaurant Equipment:** includes but is not limited to any materials, merchandise, tools, carts, tables, chairs, podiums, or other items owned by, in possession of or associated with a restaurant.
- XV. **Restaurant:** a commercial establishment where food and beverages are prepared, served, and consumed primarily within a principal building which abuts the Calle Guanajuato.

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- XVI. **Restaurateur:** a licensed restaurant operation on the Calle Guanajuato.
- XVII. **Season:** is the term of use for concession and restaurant operation at the Calle Guanajuato each year. Exact operating dates for each season will approved annually during the review period of permits.
- XVIII. **Restaurant Seniority:** shall be established for application review when a restaurateur and/or Landlord/Owner has been granted a permit to a specific designated site for the calendar year immediately before the current calendar year. Seniority shall be forfeited when occupancy of the site has been abandoned by the applicant or Landlord/Owner for any reason for any period of more than 3 months. For a restaurant with singular access onto the Calle, first right of refusal for any seating immediately adjacent to their building will apply as long as it does not interfere with an already established concession area.
- XIX. **Singular Access:** Calle Restaurant has no access from the plaza side. Primary access is on the Calle Guanajuato side. Address may also reflect a Calle Guanajuato street address.


Approved:


Mike Gardiner, APRC Chair

Date:

3/1/19

Approved, as to form:


Dave Lohman, City Attorney

Date:

2/26/19

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