

Authority: Economic and Community Development
Committee Item EC2.3, adopted as amended, by City of
Toronto Council on March 27 and 28, 2019

CITY OF TORONTO

Bill 888

BY-LAW -2019

To adopt City of Toronto Municipal Code Chapter 742, Sidewalk Cafés, Parklets and Marketing Displays, and amend City of Toronto Municipal Code Chapters 27, Council Procedures, 743, Streets and Sidewalks, Use of, 937, Temporary Closing of Highways, and 441, Fees and Charges, to regulate sidewalk cafés, parklets and marketing displays on highways within the City of Toronto.

Whereas under sections 7 and 8 of the City of Toronto Act, 2006, the City may pass by-laws in respect of the health, safety and well-being of persons and the economic, social and environmental well-being of the City; and

Whereas Council has authorized the adoption of Toronto Municipal Code Chapter 742, Sidewalk Cafés, Parklets and Marketing Displays, to provide regulations for the installation, maintenance and operation of sidewalk cafés, parklets and marketing displays within the City of Toronto to better balance the interests of businesses and users of City highways;

The Council of the City of Toronto enacts:

1. The City of Toronto Municipal Code is amended by adding the chapter set out in Schedule A to this by-law as Chapter 742, Sidewalk Cafés, Parklets and Marketing Displays, in Part 2, General By-laws, of the City of Toronto Municipal Code.
2. Chapter 27, Council Procedures, of the City of Toronto Municipal Code is amended by:
 - A. Amending § 27-18.4.B(6)(b) by adding the phrase "937-3.13" so that it reads as follows:

The authority to deal with the matters set out in Subsection B(6)(a) only applies where the authority to temporarily close has not been delegated to the General Manager of Transportation Services pursuant to Sections 937-3.2, 937-3.8, 937-3.9 or 937-3.13 of Chapter 937, Temporary Closing of Highways.

- B. Amending § 27-18.4.C(1) so that it reads as follows:

Boulevard café permit appeals except appeals in relation to the location, design and safety of parklet cafés and public parklets; and/or pedestrian clearway requirements under Chapter 742, Sidewalk Cafés, Parklets and Marketing Displays.

- C. Amending § 27-18.4.C(2) so that it reads as follows:
- Boulevard marketing permit appeals except appeals in relation to pedestrian clearway requirements under Chapter 742, Sidewalk Cafés, Parklets and Marketing Displays.
- D. Adding a new § 27-18.4.E(6) and § 27-18.4.E(7) as follows:
- (6) The imposition of temporary or permanent alternative hours of operation on boulevard café permit holders, except for special events.
- (7) Cancellation or suspension of a boulevard café permit or boulevard marketing permit, except a temporary seasonal suspension, which the Executive Director, Municipal Licensing and Standards, has authority for.
3. Chapter 743, Streets and Sidewalks, Use of, of the City of Toronto Municipal Code is amended by:
- A. Adding the phrase "Chapter 742, Sidewalk Cafés, Parklets and Marketing Displays," to § 743-31F so that it reads as follows:
- All encroachments not specifically permitted under Article II, III, IV or V of Chapter 693, Signs, Chapter 694, Signs, General, Chapter 742, Sidewalk Cafés, Parklets and Marketing Displays, Chapter 918, Parking on Residential Front Yards and Boulevards, or § 743-3, § 743-7, § 743-14, § 743-15, § 743-16, § 743-17, § 743-18, § 743-19, § 743-31A and § 743-32A of this chapter, are prohibited except under an agreement with the City or as described in this Article.
- B. Adding a new § 743-14I as follows:
- The provisions of Subsections A to F shall not apply to persons proposing to install canopies or awnings on or over a permit area as defined in Chapter 742, Sidewalk Cafés, Parklets and Marketing Displays, provided that such persons comply with Chapter 742, Sidewalk Cafés, Parklets and Marketing Displays.
4. Chapter 937, Temporary Closing of Highways, of the City of Toronto Municipal Code is amended by:
- A. Adding a new § 937-3.13 as follows:
- § 937-3.13. Parklet cafés and public parklets.**
- Despite any other by-law, the General Manager of Transportation Services may temporarily close to vehicular traffic the curb lanes or any portion thereof of any highway for a period up to and including 180 consecutive days from April 15 of one year to November 15 of that same year as required for the purposes of permitting parklet cafés or public parklets when an applicant has been issued a permit under Chapter 742, Sidewalk Cafés, Parklets and Marketing Displays.

- B. Adding the phrase "937-3.13" to § 937-4 so that it reads as follows:

§ 937-4. Closures which require Council approval.

The General Manager of Transportation Services' authority as set out in §§ 937-2, 937-3, 937-3.2, 937-3.8, 937-3.9 and 937-3.13 shall not extend to the F.G. Gardiner Expressway, the Don Valley Parkway, the W.R. Allen Road, Black Creek Drive or Highway 27, closures of which require Council approval.

5. Schedule 2, Transportation Services, of Appendix C of Chapter 441, Fees and Charges, of the City of Toronto Municipal Code is amended by adding the following items:

Chapter 441 Ref. #	Service	Fee description	Category	Fee basis	Fee	Annual Adjustment
TP165	Permits & Applications	Application fee: Public Parklet All Zones	City Policy	Each parking space	\$568.71	Yes

6. Schedule 12, Municipal Licensing and Standards, of Appendix C of Chapter 441, Fees and Charges, of the City of Toronto Municipal Code is amended by adding the following items:

Chapter 441 Ref. #	Service	Fee description	Category	Fee basis	Fee	Annual Adjustment
MS455	Licences & Permits Issuance	Application fee: Sidewalk Café permit	Full cost recovery	Application	\$865.00	Yes
MS470	Licences & Permits Issuance	Application fee: Marketing permit	Full cost recovery	Application	\$765.00	Yes
MS464	Licences & Permits Issuance	Permit Transfer fee: Sidewalk Café and Marketing	Full cost recovery	Application	\$676.27	Yes

MS456	Licences & Permits Issuance	Annual fee: Sidewalk Café permit: Central zone	Market Based	Square Metre	\$88.31	Yes *
MS457	Licences & Permits Issuance	Annual fee: Sidewalk Café permit: Outer zone	Market Based	Square Metre	\$44.14	Yes *
MS458	Licences & Permits Issuance	Annual fee: Marketing Display permit: Central zone	Market Based	Square Metre	\$62.65	Yes *
MS459	Licences & Permits Issuance	Annual fee: Marketing Display permit: Outer zone	Market Based	Square Metre	\$38.12	Yes *

* Annual adjustment will apply once the permit fees are fully implemented

7. Schedule 12, Municipal Licensing and Standards, of Appendix C of Chapter 441, Fees and Charges, of the City of Toronto Municipal Code is amended by deleting the following items:

Chapter 441 Ref. #	Service	Fee description	Category	Fee basis	Fee	Annual Adjustment
MS279	Licences & Permits Issuance	Application fee: Boulevard Café permit	City Policy	Application	\$253.31	Yes
MS281	Licences & Permits Issuance	Application fee: Boulevard Marketing permit	City Policy	Application	\$84.35	Yes
MS301	Licences & Permits Issuance	Annual fee: Boulevard Café permit - Area 1	Full Cost Recovery	Square metre	\$83.43	Yes
MS303	Licences & Permits Issuance	Annual fee: Boulevard	Full Cost Recovery	Square metre	\$41.70	Yes

		Café permit - Area 2				
MS305	Licences & Permits Issuance	Annual fee: Boulevard Café permit - Area 3	Full Cost Recovery	Square metre	\$20.87	Yes
MS307	Licences & Permits Issuance	Annual fee: Boulevard Café permit - East York	Full Cost Recovery	Square metre	\$22.71	Yes
MS311	Licences & Permits Issuance	Annual fee: Boulevard Marketing permit - Area 1	Full Cost Recovery	Square metre	\$94.87	Yes
MS313	Licences & Permits Issuance	Annual fee: Boulevard Marketing permit - Area 2	Full Cost Recovery	Square metre	\$47.51	Yes
MS315	Licences & Permits Issuance	Annual fee: Boulevard Marketing permit - Area 3	Full Cost Recovery	Square metre	\$23.78	Yes
MS317	Licences & Permits Issuance	Annual fee: Boulevard Marketing permit - East York	Full Cost Recovery	Square metre	\$22.71	Yes
MS409	Licences & Permits Issuance	Application fee: Boulevard Café permit - East York	Full Cost Recovery	Application	\$57.72	Yes
MS410	Licences & Permits Issuance	Application fee: Boulevard Marketing permit - East York	Full Cost Recovery	Application	\$57.72	Yes

8. Schedule 1, Parks, Forestry and Recreation, of Appendix E of Chapter 441, Fees and Charges, of the City of Toronto Municipal Code is amended by adding the following items:

Chapter 441 Ref. #	Service	Fee description	Category	Fee basis	Fee	Annual Adjustment
PR.8.7016	Urban Forestry	Funds tree planting across the City	City Policy	Each	\$650.00	No

9. Schedule 1, Toronto Parking Authority, of Appendix G of Chapter 441, Fees and Charges, of the City of Toronto Municipal Code is amended by adding the following items:

Chapter 441 Ref. #	Service	Fee description	Category	Fee basis	Fee	Annual Adjustment
MS462	Licence & Permit Issuance	Monthly Fee: Parklet Café Central zone	Market Based	Each parking space	\$1,093.00	No**
MS463	Licence & Permit Issuance	Monthly Fee: Parklet Café Outer zone	Market Based	Each parking space	\$683.00	No**

** subject to increases in accordance with Toronto Parking Authority

10. This by-law shall come into force on September 1, 2019.

Enacted and passed on June , 2019.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)

SCHEDULE A

Chapter 742
SIDEWALK CAFÉS, PARKLETS AND MARKETING DISPLAYS

ARTICLE 1
General

§ 742-1.1. Definitions.

A. As used in this Chapter, the following terms shall have the meanings indicated:

AWNING - A removable or retractable unenclosed temporary structure, affixed to the adjacent building, that is made of light material having a light metal or reasonably equivalent frame covered by fire-proof canvas or similar sail goods, that is installed over a permitted café or marketing area. If the structure is attached to the surface of a street, it is not an awning under this Chapter.

APPLICANT – A person applying for a permit under this Chapter.

ARTERIAL ROAD - Any street that is designated as such in the City's road classification system, as amended from time to time.

BOULEVARD CAFÉ – Has the same meaning as sidewalk café.

BUSINESS IMPROVEMENT AREA – A board of management for an area designated as a Business Improvement Area established under Chapter 19, Business Improvement Areas.

CHIEF BUILDING OFFICIAL – The Chief Building Official of the Toronto Building Division for the City of Toronto or designate.

COLLECTOR ROAD - Any street that is designated as such in the City's road classification system, as amended from time to time.

CURBSIDE – The portion of a sidewalk located immediately adjacent to the edge of the portion of the street used for vehicle traffic, where the edge is demarcated by a continuous poured raised concrete curb.

CURBSIDE CAFÉ – A sidewalk café that is located curbside.

EMERGENCY WORK – Work within a street that must be completed immediately due to health or safety concerns, or due to the urgent need to restore essential services, as determined in the sole and exclusive opinion of the City.

EXECUTIVE DIRECTOR – The Executive Director of the Municipal Licensing and Standards Division for the City of Toronto or designate.

FORMER BY-LAW – Municipal Code Chapter 313, Streets and Sidewalks of the former City of Toronto; By-law 16-97 of the former City of East York; By-law 41-93 of the former Municipality of Metropolitan Toronto; by-law Number 29607 of the former City of North York; By-law 3343-79 of the former Borough of York; and any permission or approval of the City of Toronto or any predecessor municipality to an operator of a sidewalk café granted at any time immediately prior to the date this Chapter came into force.

FRONTAGE CAFÉ – A sidewalk café that is located immediately adjacent to the frontage wall of the associated establishment.

FURNISHING AND PLANTING ZONE – The zone or area of the sidewalk and boulevard that provides space for a wide range of street elements such as trees, other plantings, litter and recycling bins, benches, street lights, and bicycle racks.

GENERAL MANAGER - The General Manager of Transportation Services for the City of Toronto and or designate.

LOCAL ROAD - Any street that is designated as such in the City's road classification system, as amended from time to time.

MARKETING DISPLAY – A display, placement or exposing of any goods, articles, foodstuffs, or merchandise within a street for the purposes of retail sale from inside the adjoining commercial or industrial premises.

OBSTRUCTION – Any fixture or object that interferes with the pedestrian clearway including but not limited to street furniture, fire hydrants, fire department connections, hydro poles, planters and plants, street trees, open tree pits, publication boxes, parking metres, A-frame signs, bicycle parking including the bicycle, benches, ramps, street lights, traffic lights/boxes, waste bins, transit shelters, bollards, merchandise, fences, pillars, and utilities.

OPERATOR – The operator of the business in the associated establishment with a sidewalk café or marketing display.

PARKLET CAFÉ – A type of sidewalk café that is a temporary lateral projection into the curb lane or parking lane of a street.

PEDESTRIAN CLEARWAY – The zone or area of sidewalk that accommodates pedestrian movement, is free of obstructions, and must be a clear and continuous path that provides universally accessible, safe and comfortable passage for pedestrians.

PERMIT – A permit issued under this Chapter.

PERMIT AREA – The part of the street for which a permit was issued under this Chapter.

PERMIT HOLDER – The holder of a permit issued under this Chapter or where a permit has been transferred, the new owner or operator to whom the permit has been transferred.

PUBLIC PARKLET – A temporary lateral projection into the curb lane or parking lane of a road that is used for a public space.

SERVICE ANIMAL – A service animal as defined in subsection 80.45(4) of O.Reg. 191/11, Integrated Accessibility Standards.

SIDEWALK – The portion of a street that is improved for the use of pedestrians.

SIDEWALK CAFÉ – an outdoor eating area located in a street where food or drink is served to the public by an eating or drinking establishment as defined in Chapter 545, Licensing, and includes a curbside café, frontage café, and parklet café. A sidewalk café does not include a small frontage café, small curbside standing café, or a public parklet.

SMALL CURBSIDE STANDING CAFÉ – A permitted encroachment that consists only of a single table, without any seating, running parallel to the curb line, with all parts of the standing café and its patrons within the furnishing and planting zone of the sidewalk.

SMALL FRONTAGE CAFÉ – A permitted encroachment that consists only of a single line of seating, with or without tables, on the sidewalk against the frontage wall of the associated establishment.

SMALL MARKETING DISPLAY – A permitted encroachment that consists of a marketing display on the sidewalk against the frontage wall of the associated establishment.

STREET – A highway as defined in the City of Toronto Act, 2006.

ARTICLE 2 **Permits and Applications**

§ 742-2.1. Permits.

- A. No person shall install a sidewalk café, public parklet, or marketing display unless they have:
- (1) obtained a permit from the City;
 - (2) paid all applicable fees, including permit and application fees for the applicable zone; and,
 - (3) entered into a written agreement with the City in a form satisfactory to the Executive Director or the General Manager in the case of public parklets.
- B. No person shall install a small frontage café, small curbside standing café, or small marketing display on a sidewalk unless they comply with the requirements set out in this Chapter.

- C. No owner of land adjoining a highway shall permit a sidewalk café, public parklet, or marketing display which contravenes a provision of this Chapter or any former by-law on the highway adjoining their land.

§ 742-2.2. Permit applications.

- A. To apply for a permit under this Chapter, applicants must submit:
- (1) a complete application in the form prescribed by the Executive Director or General Manager, and pay in advance an application fee;
 - (2) if the applicant is not the owner of the land adjoining the location of the proposed sidewalk café, public parklet or marketing display, a letter signed by the owner indicating that the owner does not object to the application;
 - (3) detailed, scaled plans and specifications to the satisfaction of the Executive Director or the General Manager, in the case of public parklets, as may be required to determine if the proposed sidewalk café, public parklet, or marketing display complies with the requirements set out in this Chapter, including but not limited to:
 - (a) detailed designs showing the permit area will be accessible to persons with disabilities;
 - (b) site plans and photographs;
 - (c) property, sidewalk and street dimensions and photographs;
 - (d) location and separation distances to street elements and utilities; and
 - (e) other stamped architectural or engineering detailed drawings or construction specifications for items such as awnings, fencing, platforms or parklet elements;
 - (4) proof that the adjoining property is zoned for industrial or commercial uses; and
 - (5) any other information deemed necessary by the Executive Director or General Manager, in the case of public parklets.

§ 742-2.3. Notice.

- A. Upon receipt of a complete application for a sidewalk café or public parklet, the Executive Director or General Manager, in the case of public parklets, will notify the following people or entities:
- (1) the Applicant;
 - (2) the local Ward Councillor;

- (3) the local Business Improvement Area, if any; and
 - (4) any resident associations registered with the City Clerk that includes the proposed café location within its area of representation.
- B. Upon receipt of a complete application for a sidewalk café proposed along a local road, the Executive Director shall notify all property owners and occupants located within a 60 metre radius of the proposed café location.
- C. All sidewalk café applicants must display a notice of the application in a form, size and location satisfactory to the Executive Director on the associated establishment for no less than 21 days commencing on a date specified by the Executive Director.

ARTICLE 3
Permit Issuance or Refusal

§ 742-3.1. Issuance

- A. The Executive Director or General Manager, in the case of public parklets, may issue a permit when all of the following conditions are met:
- (1) an application is approved or an appeal is granted;
 - (2) an applicant has entered into a written agreement with the City that is satisfactory to the Executive Director or the General Manager in the case of an application for a public parklet;
 - (3) an applicant has agreed to indemnify and save harmless the City from any actions, loss, costs, claims or damages arising from the use of the sidewalk or street for the purposes of the permit;
 - (4) an applicant has paid the annual permit fee for the applicable zone and the fee for tree planting, if applicable; and
 - (5) an applicant has obtained the applicable approvals from Toronto Building, Toronto Fire Services, City Planning Heritage Preservation Services, and other City divisions and agencies, as may be necessary in the opinion of the Executive Director.

§ 742-3.2. Refusal.

- A. The Executive Director or General Manager, in the case of public parklets, shall refuse an application for a sidewalk café, public parklet, and/or marketing display if:
- (1) the application contains false, misleading or fraudulent information;

- (2) in the case of an application for a sidewalk café, the City receives multiple objections to the application from members of the public during the 21-day period of public notice;
 - (3) the City receives an objection from Transportation Services, Toronto Transit Commission, Toronto Fire Services, Parks, Forestry and Recreation, City Planning, Enbridge, Toronto Hydro, or any other utility company deemed necessary by the Executive Director;
 - (4) the proposed sidewalk café, public parklet, or marketing display does not meet the requirements of this Chapter; or
 - (5) the applicant has outstanding fees or fines with the City, with respect to this Chapter or a former by-law.
- B. The City shall notify an applicant whose application has been refused.

ARTICLE 4 Appeals

§ 742-4.1. Submission of appeal.

- A. An applicant may appeal a refusal of an application by submitting an appeal to the City within 14 days of receipt of the notice of refusal.
- B. Any appeal submitted in accordance with Subsection A shall be made in a form acceptable to the Executive Director or the General Manager and must include the applicant's grounds for the appeal.

§ 742-4.2. Appeals to the General Manager.

- A. Where the grounds for an appeal include the proposed location, design and safety of a parklet café, the proposed location, design and safety of a public parklet, or a failure to meet pedestrian clearway requirements under this Chapter, the General Manager shall hear, review and make a final decision with respect to those grounds of the appeal.
- B. In making a final decision of an appeal under this section, the General Manager may consult with a staff working group.
- C. The General Manager may make the following decisions with respect to an appeal under this section:
 - (1) refuse the appeal and uphold the refusal of the application, or
 - (2) grant the appeal subject to any terms and conditions determined to be appropriate by the General Manager.

- D. The General Manager will forward their decision to the Executive Director and the Executive Director shall:
- (1) Notify the applicant that their appeal has been refused and their application will be refused; or
 - (2) Where the appeal was granted and the only grounds for appeal were the proposed location, design and safety of a parklet café, the proposed location, design and safety of a public parklet, or a failure to meet pedestrian clearway requirements under this Chapter, issue the applicant a permit with the terms and conditions determined to be appropriate by the General Manager; or
 - (3) Where the appeal was granted and there are grounds for appeal other than the proposed location, design and safety of a parklet café, the proposed location, design and safety of a public parklet, or a failure to meet pedestrian clearway requirements under this Chapter, forward the remainder of the appeal to Community Council for consideration on those other grounds for appeal.
- E. Despite Subsection D, where the appeal pertains to a public parklet, the General Manager shall:
- (1) Notify the applicant that their appeal has been refused and their application will be refused; or
 - (2) Where the appeal was granted, issue the applicant a permit with the terms and conditions determined to be appropriate by the General Manager.

§ 742-4.3. Appeals to Community Councils.

- A. The Executive Director shall prepare and forward a report to the appropriate Community Council upon receipt of an appeal on grounds other than those subject to the appeal contained in section 4.2, and the report include the:
- (1) applicant's grounds for the appeal;
 - (2) grounds for refusal of the application; and
 - (3) General Manager's decision and conditions in relation to the granting of a pedestrian clearway appeal, where applicable.
- B. Notice of the Community Council meeting at which the appeal will be heard will be provided to:
- (1) The applicant who submitted the appeal; and
 - (2) Any person who submitted an objection to the application.

- C. Following receipt of the Executive Director's report, Community Council will provide the applicant and any other person with the opportunity to be heard and may either:
 - (1) refuse the appeal; or
 - (2) grant the appeal and direct that the permit be issued subject to any terms and conditions as determined by Community Council.
- D. If an appeal is refused for any reason, the application fee will not be refunded to the applicant.
- E. Where an application has been considered and refused by Community Council, a further application for the same address or location shall not be accepted within two (2) years from the date of the prior application.

ARTICLE 5
Permit Term and Requirements

§ 742-5.1. Term.

- A. For permits where the associated establishment requires a licence under Chapter 545, Licensing, the term of the permit shall be harmonized with the term of the licence issued under Chapter 545, Licensing;
- B. For permits where the associated establishment does not require a licence under Chapter 545, Licensing, the term of the permit shall be 12 months from the date of issuance of the permit.
- C. A permit will not be renewed if the permit holder is in violation of this Chapter, has unpaid fees or fines under this Chapter, or cannot produce a certificate of insurance for the permit area.

§ 742-5.2. Permit requirements.

- A. Permit holders shall:
 - (1) install and maintain the sidewalk café, public parklet or marketing display in accordance with the approved permit plan and permit agreement;
 - (2) comply with any other applicable by-law or legislation;
 - (3) maintain in good standing a licence under Chapter 545, Licensing, for the associated establishment where applicable;
 - (4) maintain at all times a policy of Commercial General Liability insurance in an amount and form satisfactory to the City of Toronto; and

- (5) display a permit issued under this Chapter by the Executive Director on the street door or in the lower front window of the associated establishment in a way that is visible at all times from the public sidewalk unless they hold a permit for a public parklet permit.

B. Permit holders shall not:

- (1) place or permit the placement of lighting, heating, barbeques, platforms, visual screens, ramps, canopies, awnings or any other elements in the permit area, without first obtaining permission to do so from the Executive Director or the General Manager, in the case of public parklets;
- (2) place or permit the placement of any café or marketing elements including chairs, tables, planters, umbrellas and sales goods outside the permit area with the exception of an umbrella canopy if it is a minimum of 2.1 metres above the sidewalk surface;
- (3) place or permit the placement of any outdoor carpeting, artificial turf or other surface covering on any portion of the sidewalk or street;
- (4) refuse entry of any person into a permit area on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status, or disability;
- (5) in respect of any person with a disability being accompanied by a service animal, by reason only of the presence of the said service animal:
 - (a) refuse to serve such person;
 - (b) refuse to permit such person to enter with such guide dog or service animal into or upon the permit area; or
 - (c) refuse to permit such person and such guide dog or service animal to remain into or upon the permit area.
- (6) obstruct, hinder or interfere with the free access of a By-law Enforcement Officer, employee, agent of the City, or any utility provider to enter any portion of the permit area for the purpose of the installation, maintenance or repair work or inspection of any part of the permit area;
- (7) damage, prune or attach any object or permit the damaging, pruning or attachment of any object to a tree;
- (8) use the permit area for any purpose other than for the use permitted by the Executive Director or General Manager, in the case of public parklets; or
- (9) assign, transfer or sub-let the permission for the use of any portion of the permit area to any other person, except in accordance with this Chapter.

ARTICLE 6
Permit Transfer

§ 742-6.1. Permit transfer.

- A. No person shall transfer a permit issued under this Chapter unless:
- (1) the potential new permit holder has completed an application in the form prescribed by the Executive Director; and
 - (2) the potential new permit holder has paid the transfer fee
- B. Any person wishing to transfer a permit shall advise the potential new permit holder that the permit area was legally installed and that a requirement to comply with this Chapter upon transfer may result in an amended or reduced permit area size.
- C. Permits for public parklets are not transferable.
- D. The Executive Director may approve an application to transfer a permit for a sidewalk café or marketing display if:
- (1) the pedestrian clearway, fencing, visual screens, and accessibility of the permit area meet the requirements of this Chapter;
 - (2) the permit area has not been altered in any way from the terms of the agreement with the City, other than to meet the pedestrian clearway, fencing and accessibility requirements of this Chapter;
 - (3) The applicant agrees that where extended hours of operation were approved by Community Council in relation to the previous operation of the sidewalk cafe, the closing hours for the sidewalk café following transfer of the permit shall be consistent with the requirements of this Chapter as if no alternative hours had been approved by Community Council;
 - (4) the Councillor for the ward in which the permit area is located has been notified and has not objected to the application within 14 days of being notified;
 - (5) the permit area and all elements in the permit area meet the minimum separation distances to utilities or public infrastructure established by Council as required for safety, operations and maintenance as determined by the General Manager; and
 - (6) the applicant has entered into a written agreement with the City that is satisfactory to the Executive Director.
- E. Where a permit holder is a corporation, the permit holder must apply to transfer the permit under this section if there is a change in directors on the corporate profile or a change in the controlling interest of the corporation.

- F. Despite Subsections A and D, where a transfer is occurring as a result of an individual deciding to incorporate their business and the transfer is from the individual to the newly-incorporated business and the individual is, and remains, the sole director of that newly-incorporated business, the Executive Director shall approve the permit transfer without an application to transfer, payment of the transfer fee or compliance with the transfer requirements set out in Subsections D(1), D(3), D(4) and D(5).

ARTICLE 7
Pedestrian Clearway and Accessible Entrance Requirements

§ 742-7.1. Pedestrian clearway.

- A. All permit areas and permitted encroachments must have an adjacent pedestrian clearway width of:
- (1) no less than 1.8 metres on a local road;
 - (2) no less than 2.1 metres on a collector or arterial road; or
 - (3) no less than 2.5 metres, or a different minimum approved by the General Manager, on streets in the area outlined in Appendix A where the sidewalk is at least 5 metres (as measured from the face of the building's exterior wall on the ground floor to the face of the curb).
- B. The pedestrian clearway must:
- (1) run adjacent along the full length of the permit area and not have changes in direction of more than 20 degrees along a street block;
 - (2) for frontage permit areas, have its width measured from the outermost edge of the permit area to the closer of the nearest obstruction or back of curb;
 - (3) for curbside permit areas, have its width measured from the edge of the permit area adjacent to the pedestrian path to the closer of the nearest obstruction on the sidewalk or the property line; and
 - (4) comply with conditions set by the General Manager where the permit area may be expanded or altered based on time-of-day pedestrian clearway requirements.

§ 742-7.2. Accessible entrances.

All permit areas shall be designed so as to permit access by a person in a mobility device, and contain at least one entrance of minimum width equal to the entrance of the associated establishment but in no case less than 1.0 metre.

ARTICLE 8
Permitted Encroachments

§ 742-8.1. Small frontage café.

- A. Owners and occupiers of land adjoining the street are permitted to maintain small frontage cafés as permitted encroachments provided that the General Manager is satisfied that the encroachment:
- (1) is located against the building wall of the associated establishment, facing the street, and not extending across a neighbouring frontage;
 - (2) does not extend further than 0.8 metres out from the building wall of the associated establishment and has a maximum width of 5.5 metres across the building frontage or the width of the associated establishment frontage, whichever is smaller;
 - (3) meets the minimum pedestrian clearway standards set out in this Chapter and leaves the pedestrian clearway unencumbered at all times;
 - (4) does not have tables and chairs in the small frontage café area after the time of business closing;
 - (5) does not have any shade umbrellas, fencing, railing, partition or enclosure of any kind placed on the small frontage café area;
 - (6) meets the minimum separation distances to utilities or public infrastructure established by Council as required for safety, operations and maintenance as determined by the General Manager; and
 - (7) has cane detectable features for the visually-impaired in the form of a small planter with a detectable base at each end of the small frontage café, or street furniture with a detectable base.

§ 742-8.2. Small curbside standing café.

- A. Owners and occupiers of land adjoining the street are permitted to maintain small curbside standing cafés as permitted encroachments provided that the General Manager is satisfied that the encroachment:
- (1) is located at the curbside in front of the associated establishment;
 - (2) is located on a street with posted speeds of 40 kilometres/hour or less;
 - (3) is no less than 15 metres upstream of the curb edge of an intersection or a pedestrian crossover;
 - (4) is no less than 9 metres downstream of an intersection or pedestrian crossover;

- (5) is set back a minimum 0.5 metres from the curb face;
- (6) does not extend longer than 1.2 metres in length running parallel to the curb line;
- (7) is not be taller than 1.2 metres from the top of the standing café table to the surface of the sidewalk;
- (8) has all parts of the standing café table and its patrons within the furnishing and planting zone;
- (9) meets the minimum pedestrian clearway standards in this Chapter;
- (10) has no seating, chairs, shade umbrellas, fencing, partitions or enclosures;
- (11) is stable and sturdy;
- (12) is removed from the sidewalk at the time of business closing;
- (13) is removed during the period from November 15 of one year to April 14 of the next year, inclusive;
- (14) is designed with a lower rail or box frame so it is cane-detectable for the visually-impaired;
- (15) is see-through between the table top, the legs and bottom frame;
- (16) does not present trip hazards on the sidewalk to pedestrians or patrons, such as having a base that extends out;
- (17) is removed at any time for any reason as required by the City; and
- (18) meets the minimum separation distances to utilities or public infrastructure established by Council as required for safety, operations and maintenance as determined by the General Manager.

§ 742-8.3. Small marketing display.

- A. Owners and occupiers of land adjoining the street are permitted to maintain small marketing displays as permitted encroachments provided that the General Manager is satisfied that the encroachment:
- (1) is located against the building wall of the associated establishment, faces the street, and does not extend across a neighbouring frontage;
 - (2) extends no further than 0.8 metres out from the building wall of the associated establishment and has a maximum width across the building frontage that is the lesser of 5.5 metres or the width of the associated establishment frontage;

- (3) meets the minimum pedestrian clearway standards set out in this Chapter and leaves the pedestrian clearway unencumbered at all times;
- (4) does not have marketing display stands or goods in the small marketing display area after the time of business closing;
- (5) does not have any shade umbrellas, fencing, railing, partition or enclosure of any kind placed on the small marketing display area; and
- (6) meets the minimum separation distances to utilities or public infrastructure established by Council as required for safety, operations and maintenance as determined by the General Manager.

§ 742-8.4. Maintenance.

Owners and occupiers of land to which the encroachments described in this Article are adjacent shall not be required to pay any permit or encroachment fee, but shall, at their expense, pursuant to Article V of Chapter 743, Streets and Sidewalks, Use of, and to the satisfaction of the General Manager, maintain all encroachment elements in a state of good repair.

§ 742-8.5. No temporary A-frame signs.

- A. No person shall hold a temporary A-frame sign permit under Chapter 693, Signs, or erect a temporary A-frame sign on a sidewalk adjacent to a location where:
 - (1) a small frontage café or small marketing display has been installed; and
 - (2) the building frontage is 6 metres or less.

ARTICLE 9
Permit Area Operational Requirements

§ 742-9.1. Usage of permit area.

- A. No sidewalk café or marketing display permit holder shall use a permit area in whole or in part for any purpose other than the operation of a sidewalk café or marketing display, as applicable, in accordance with this Chapter.
- B. No sidewalk café permit holder shall use a permit area for storage of any café elements.

§ 742-9.2. Surface grading and paving.

All permit holders shall pave and maintain any portion of the sidewalk or boulevard to be used for the purpose of a sidewalk café or marketing display to the satisfaction of the General Manager where the surface of the sidewalk is deemed by the General Manager to require surface grading and/or paving.

§ 742-9.3. Retractable permit area.

The Executive Director may require a permit holder to remove and relocate any fencing, white cane-detectable planters and/or any other elements within the permit area on a daily basis at times specified by the General Manager to comply with time-of-day pedestrian clearway requirements determined by the General Manager.

§ 742-9.4. Extended frontage permit areas.

- A. The Executive Director may allow a permit area for a marketing display or sidewalk café to extend across the front of an adjacent property, or across the curbside area or parking area of an adjacent property in the case of a parklet café, where an applicant or permit holder has provided the Executive Director with a letter of consent, in a form satisfactory to the Executive Director, from the adjacent property owner across whose area the permit area will extend.
- B. Should the Executive Director receive a letter from an adjacent property owner revoking a consent provided under Subsection A, the Executive Director will amend the permit area to remove the portion of the permit area which extends across the front of that adjacent property.
- C. The reduction in permit area in Subsection B will be effective as of:
 - (1) the next permit renewal date where the letter revoking consent is received by the Executive Director at least 45 days in advance of that next permit renewal date; or
 - (2) Where the letter revoking consent is received by the Executive Director less than 45 days in advance of the next permit renewal date, at the first permit renewal date subsequent to that next permit renewal date.

§ 742-9.5. Seasonal operation.

- A. A sidewalk café or marketing display permitted under this Chapter may remain on a sidewalk year-round when the following conditions are met:
 - (1) the permit area is located against the building wall of the associated establishment;
 - (2) the permit area meets minimum pedestrian clearway requirements set out in this Chapter;
 - (3) the permit holder provides snow and ice clearing and removal for the pedestrian clearway adjacent to the permit area in accordance with applicable City standards;
 - (4) the permit holder applies salt and sand to the pedestrian clearway adjacent to the permit area in accordance with applicable City standards; and
 - (5) the permit holder does not use the permit area for the storage of snow.

- B. All sidewalk café and marketing display permit holders with permit areas not located against the building wall of the associated establishment shall remove all elements including fencing from the permit area, at the sole expense of the permit holder, from November 15 of one year to April 14 of the next year, inclusive.

§ 742-9.6. Awnings.

- A. No person shall install an awning or similar temporary installation on or over a permit area until they have received written approval from the Executive Director and paid the applicable fee.
- B. Awnings or similar temporary installations shall only be permitted over permit areas for frontage cafés or marketing displays.
- C. Every permit holder who proposes to install an awning or similar temporary installation on or over a permit area shall submit an application to the Executive Director that includes the following information:
- (1) Certificate of Fireproof rating for the awning or similar temporary installation;
 - (2) site plan details showing the location of the awning or similar temporary installation;
 - (3) mechanical specifications for framing;
 - (4) mounting and materials to be used;
 - (5) applicable permit approvals from the Chief Building Official;
 - (6) applicable permit approvals from City Planning, Heritage Preservation Services, if the proposed installation is being attached to a building on the Heritage Register; and
 - (7) any other information required by the Executive Director.
- D. Permit holders must ensure that any awning framework, awning, curtain, canopy, fabric or similar sail goods material used in an awning or similar temporary installation over a permit area is:
- (1) at least 2.1 metres above the level of the street or sidewalk;
 - (2) in conformity with CAN/ULC-S109, Flame Tests of Flame-Resistant Fabrics and Films or any successor standard; and
 - (3) in conformity with the Ontario Building Code.

§ 742-9.7. Lighting.

- A. Permit holders must ensure that lighting related to the permit area:
- (1) complies with all applicable safety standards and codes;
 - (2) consists of temporary fixtures;
 - (3) is removed from November 15 of one year to April 14 of the next year, inclusive, unless the frontage café or marketing display is permitted to remain on a sidewalk year-round in accordance with this Chapter;
 - (4) is directed into the permit area to avoid casting glare on passersby and nearby properties;
 - (5) does not have any power cables or lighting elements running on or over the pedestrian clearway;
 - (6) is not attached or affixed to street elements, street trees or utilities;
 - (7) obtains its power from a private source or from a Business Improvement Area where permission from the Business Improvement Area has been granted.

§ 742-9.8. Maintenance, cleanliness, orderliness.

- A. All permit holders shall, at their own expense:
- (1) maintain all portions of the permit area and the street around the permit area in a clean and sanitary condition, including sweeping, clearing and removing all debris and cigarette butts;
 - (2) keep any objects and furnishings associated with the permit area in good and proper repair and condition, including the immediate removal of all graffiti; and
 - (3) pay all utility, service, infrastructure or other rates, fees and charges that are incurred due to the operation of the permit area.

§ 742-9.9. Amplified sound.

- A. Sidewalk café permit holders shall ensure that:
- (1) There is no amplified sound on any sidewalk café.
 - (2) Doors and windows of the associated establishment are closed if the associated establishment has interior music or amplified sound.

- B. Despite Subsection A, amplified sound on a curbside café, parklet café or public parklet is permitted if the permit holder has obtained a street event permit under Chapter 743, Streets and Sidewalks, Use of.

§ 742-9.10. Hours of operation.

- A. Permit holders shall ensure that:
- (1) Subject to Subsection A(2), where a permit area is located on a local road, the sidewalk café permit area is closed and cleared of customers by 11:00 p.m.
 - (2) Where alternative hours of operation have been imposed by Community Council for a permit area, the permit area is closed and cleared of customers in accordance with those alternative hours.

ARTICLE 10
Location, Design and Other Requirements for Permit Areas

§ 742-10.1. Separation from residential zone.

- A. All sidewalk café permit areas shall provide for:
- (1) A minimum separation distance of 30 metres from the closest part of the permit area to the nearest lot in a Residential Zone Category or Residential Apartment Zone Category, as set out in the applicable zoning by-law.
 - (2) A minimum separation of one metre from the closest part of the permit area to any entrance to a dwelling unit that may be located on a local road within an adjacent building or within the building containing the associated establishment.
 - (3) A minimum separation of six metres from the closest part of the permit area to the extended boundary of a lot in a Residential Zone Category or Residential Apartment Zone Category on the opposite side of the street across from the proposed permit area.

§ 742-10.2. Curbside cafés and parklets.

- A. A permit may be issued for a curbside café, parklet café or public parklet where the permit area meets the requirements of this Chapter and:
- (1) is located at least 3 metres from any mid-block curb ramp with tactile walking surface indicators and at least 1 metre from any driveway or laneway;
 - (2) does not result in more than 12 metres of curbside café(s), parklet café(s) and/or public parklet(s) fronting along any block of a street;
 - (3) provides access between adjacent curbside cafés or parklets for pedestrians from the street to the property line that is unobstructed and at least 1.8 metres in width;

- (4) has an unobstructed emergency access route, in conformance with the Ontario Building Code and Fire Code;
- (5) does not interfere with curbside garbage collection;
- (6) does not have outdoor food preparation;
- (7) does not have any enclosures, structures, or visual screens;
- (8) is not adjacent to, or in a location that interferes with, transit stop zones, taxi zones and/or loading zones; and
- (9) meets the minimum separation distances to utilities or public infrastructure established by Council as required for safety, operations and maintenance as determined by the General Manager.

§ 742-10.3. Additional requirements for curbside cafés.

- A. A permit may be issued for a curbside café where the permit area meets the requirements of § 742-10.2 and is located:
- (1) at the curbside in front of the applicant's establishment, unless the applicant has obtained permission for an extended curbside café;
 - (2) on a street with posted and operating speeds of:
 - (a) 40 kilometres/hour or less; or
 - (b) greater than 40 kilometres/hour if approved by the General Manager based on a review of factors such as street context, number and width of travel lanes, traffic volumes and speeds, setbacks, and other safety-related considerations;
 - (3) no less than 20 metres upstream of a transit stop, and if there is no transit stop, no less than 15 metres upstream of the closest curb edge of an intersection or a pedestrian crossover;
 - (4) no less than 9 metres downstream of the closest curb edge of an intersection or pedestrian crossover; and
 - (5) with a set back of a minimum 0.5 metres from the curb face.
- B. Permit holders shall ensure that all curbside cafés have fencing or cane-detectable planters for the visually-impaired.

- C. Permit holders shall ensure that all umbrellas in a curbside café permit area meet the following standards:
- (1) All parts of any umbrellas in a curbside café must be set back at least 0.8 metres from the curb face.
 - (2) All shade umbrellas in a curbside café may project into the pedestrian clearway to the lesser of half the umbrella's width or 1.5 metres.
 - (3) The lowest edge of any umbrella in a curbside café must be at least 2.1 metres above the sidewalk surface.

§ 742-10.4. Additional requirements for parklets.

- A. A permit may be issued for a parklet café or public parklet where the permit area meets the requirements of § 742-10.2 and is located:
- (1) only within parking spaces where there are no restrictions or prohibitions for parking, standing or stopping in effect at any time of day;
 - (2) on a street with posted and operating speeds of:
 - (a) 40 kilometres/hour or less; or,
 - (b) greater than 40 kilometres/hour if approved by the General Manager based on a review of factors such as street context, number and width of travel lanes, traffic volumes and speeds, setbacks, and other safety-related considerations;
 - (3) no less than 30.5 metres upstream of the closest curb edge of a signalized intersection;
 - (4) no less than 18 metres upstream of the location of a transit stop, and if there is no transit stop, no less than 15 metres upstream of the closest curb edge of an unsignalized intersection or pedestrian crossover;
 - (5) no less than 9 metres downstream of the closest curb edge of an intersection, except where barriers such as a curb extension is present. Where a curb extension is present, the parklet may be located in a parking space adjacent to the curb extension;
 - (6) no less than 9 metres downstream of a pedestrian crossover;
 - (7) no wider than 2.0 metres in depth; and
 - (8) with a minimum 0.5 metre set back from the adjacent travel lane or a greater setback as determined by the General Manager if considered on a street where posted and operating speeds are greater than 40 kilometres/hour.

- B. Permit holders shall ensure that all parklet cafés and public parklets:
- (1) have a secure, stable, and safe vertical barrier along the perimeter of the parklet, except between the parklet and the sidewalk;
 - (2) have a vertical barrier at least 0.9 metres in height and any opaque portions of any barrier must not be greater than 0.9 metres in height, measured from the surface of the street, to preserve sight lines;
 - (3) include a wheel stop within the permit area at a distance of 1.2 metres from each end of the parklet platform, unless determined otherwise by the General Manager, and have secure, stable and safe planters in the permit area at each end of the parklet, either freestanding or integrated with the parklet platform, to help protect the parklet from moving traffic and parking vehicles;
 - (4) have retro-reflective marking tape at each end of the parklet and all other parklet materials must minimize glare for drivers and cyclists;
 - (5) not have jersey barriers;
 - (6) have platform surfaces level with the sidewalk with a cross slope (from curb to outer parklet edge) of no greater than 2 percent and a running slope (along the street) of no greater than 5 percent;
 - (7) have a platform that is:
 - (a) able to safely bear the weight of people and elements on the platform;
 - (b) stable, safe and slip-resistant;
 - (c) accessible between the level of the sidewalk and the parklet platform; and
 - (d) compliant with the standards for decks, platforms and ramps set out in the Accessibility for Ontarians with Disabilities Act and the Ontario Building Code;
 - (8) not block stormwater drainage and overland flow;
 - (9) not be used as a detour of an existing sidewalk;
 - (10) have all parts of any umbrellas on a parklet set back at least 0.8 metres from the parklet edge adjacent to the travel lanes and parking spaces;
 - (11) are removed entirely, including the platform and all related elements, from the permit area at the sole expense of the permit holder during the period from November 15 of one year to April 14 of the next year, inclusive; and

- (12) are closed to the public and removed if at any time the General Manager is concerned that the parklet poses a risk to the health or safety of any person.

§ 742-10.5. Separation distances from street furniture and utilities.

All elements in a sidewalk café permit area, including fixed and portable sidewalk café elements, must meet the minimum separation distances established by Council.

§ 742-10.6. Visual screens.

- A. Permit holders for a frontage café located on a local road must have a visual screen on the edge of the permit area facing any residential area that meets the following requirements:
- (1) a maximum height of 1.8 metres; and
 - (2) not be installed in a permit area if the Executive Director or General Manager determines the visual screen poses a risk to the safety of any member of the public or obscures a traffic control sign or heritage building feature or sightlines for transit safety and operations.

§ 742-10.7. Fencing.

- A. Permit holders with frontage cafés or curbside cafés with permit areas on an arterial road or collector road must provide fencing in accordance with this Chapter.
- B. Permit holders with frontage cafés with permit areas on local roads are not required to provide fencing but must have cane-detectable planters or elements at each end of the permit area, but not the entire perimeter of the permit area, in accordance with this Chapter.
- C. No person shall install or permit the installation of fencing on any small frontage café or small curbside standing café.
- D. Any fencing installed in a frontage café and/or curbside café permit area on an arterial or collector road must be:
- (1) easily removable and located on the perimeter of the permit area;
 - (2) at least 1.2 metres from any fire hydrant;
 - (3) designed so that pumper or fire department (Siamese) connections on adjoining buildings are clearly visible and directly and easily accessible from the street, and the location of access openings in the fence shall be satisfactory to the Fire Chief and the Executive Director;
 - (4) curved or angled at a street corner where the frontage café extends around the corner to accommodate unimpeded pedestrian movement;

- (5) designed to provide detectability for the visually-impaired by including at least one of the following features:
 - (a) lower rail height between 75mm and 150mm above the sidewalk surface with a contrasting colour to the sidewalk; or
 - (b) planter boxes with a detectable base that are spaced no more than 0.3 metres apart from each other except for the entrance.
- (6) no shorter than 0.9 metres and no taller than 1.2 metres for the height of the top rail of the fence or top of the opaque part of planters and plants;
- (7) no taller than 0.9 metres in height for all opaque parts of the fence or planters with plants within 30 metres of any intersection to maintain sightlines;
- (8) self-supporting or supported by removable plates attached to the paved surface of the permit area so long as no parts of the fence create a trip hazard and do not project beyond the limits of the permit area;
- (9) not penetrating the surface of the sidewalk with footings other than bolt attachments; and
- (10) not attached to properties on the Heritage Register, street trees, street furniture, or utilities/services.

§ 742-10.8. Radiant heaters.

- A. No permit holder shall install or operate a radiant heater on a permit area unless:
 - (1) The permit area is for a frontage cafe; and
 - (2) The permit holder has obtained prior written approval from the Executive Director.
- B. The Executive Director may issue a written approval for a radiant heater for a frontage café permit area where:
 - (1) the permit holder has submitted an application site plan to the Executive Director showing the location and specifications of the proposed radiant heating unit; and
 - (2) the permit holder has provided evidence that the radiant heater is:
 - (a) certified for outdoor use;
 - (b) certified by and installed according to guidelines of the Standards Council of Canada;
 - (c) installed in accordance with the location and specifications of the site plan

approved by the Executive Director;

- (d) installed and operated in conformity with the manufacturer's instructions and specifications, including clearance from combustible materials; and
- (e) inspected by a representative of the energy provider and a copy of the inspection certification must be provided to the Executive Director.

§ 742-10.9. Portable propane heaters.

- A. No permit holder shall install or operate a portable propane heater on a permit area unless:
 - (1) The permit area is for a frontage café, parklet café or public parklet; and
 - (2) The permit holder has obtained prior written approval from the Executive Director or the General Manager in the case of public parklets.
- B. The Executive Director, or General Manager in the case of public parklets, may issue a written approval for a portable propane heater for a frontage café, parklet café or public parklet permit area where:
 - (1) the permit holder has submitted an application site plan to the Executive Director or General Manager showing the location and specifications of the proposed portable propane heating unit; and
 - (2) the permit holder has provided evidence that the portable propane heater is:
 - (a) installed and operated in conformity with the manufacturer's instructions and specifications, including clearance from combustibles and secured to the permit area utilizing the manufacturer's listed parts;
 - (b) installed in accordance with the location and specifications of the site plan approved by the Executive Director or General Manager;
 - (c) in compliance with the requirements as set out in Technical Standards and Safety Act, 2000 Ontario Regulation 211/01 Propane Storage and Handling or any successor regulation; and
 - (d) operated by persons who have completed a training course in the use of propane.

§ 742-10.10. Barbecues.

- A. No permit holder shall install or operate a barbecue on a permit area unless:
- (1) The permit area is for a frontage café on a local road; and
 - (2) The permit holder has obtained prior written approval from the Executive Director.
- B. The Executive Director may issue a written approval for a barbecue for a frontage café on a local road where:
- (1) the permit holder has submitted an application site plan to the Executive Director showing the location and specifications of the proposed barbecue; and
 - (2) the permit holder has provided evidence that the barbecue is:
 - (a) installed in accordance with the location and specifications of the site plan approved by the Executive Director; and
 - (b) installed with a clearance of at least 1.2 metres between any barbecue and any seating areas or any added heat sources (e.g., radiant or propane heaters), and the clearance shall be defined by a portable physical barrier made of a fireproof material, with dimensions of not less than 1.2 metres in width and 2 metres in height.

§ 742-10.11. Placement of heating units.

Permit holders shall ensure that any heating unit on a permit area must be located on the permit area in a way that does not present a hazard to sidewalk café patrons, pedestrians or vehicles; and directs heat waves away from any trees or landscaping.

§ 742-10.12. Decks.

- A. No permit holder shall install or permit the installation of a deck on a permit area without the permit holder having first obtained permission from the Executive Director and the Chief Building Official.
- B. Decks are only permitted on frontage cafés with permit areas on a local road where the sidewalks exceed a slope of 5 percent or special accommodation is being made to protect mature trees.
- C. All decks on frontage café permit areas shall meet the following requirements:
- (1) not be higher than what is required to accommodate a level area and the deck-framing members which shall be the minimum depth required to achieve a level area;

- (2) have a skirt or screen wherever there is a gap or opening between the surface of the sidewalk and the bottom boards of the deck;
 - (3) not be physically attached to the street;
 - (4) comply with the Accessibility for Ontarians with Disabilities Act and the Ontario Building Code;
 - (5) provide a break in the railing of a minimum width of 1 metre at the high side of the slope to provide wheelchair access;
 - (6) not be constructed over existing utilities such as hydro vaults, chambers, maintenance holes, etc., except with prior written approval given by the relevant utility or service; and
 - (7) not impede sidewalk or roadway drainage.
- D. A permit holder shall, at the expense of the permit holder, remove a deck to the satisfaction of the Executive Director upon 30 days' notice from the Executive Director.

ARTICLE 11
Additional Requirements for Marketing Displays

§ 742-11.1. Marketing display requirements.

- A. Marketing display permit holders must:
- (1) be the owner or the occupant of the ground floor premises adjoining the permit area;
 - (2) provide a minimum separation of one metre from the closest part of the permit area to any entrance to a dwelling unit that may be located on a local road within an adjacent building or within the building containing the ground floor premises adjoining the permit area;
 - (3) not erect any enclosures around the permit area;
 - (4) limit the placement and display of materials and merchandise to a height that is easily accessible for patrons standing on the sidewalk surface;
 - (5) not place, display or allow the placement or display of any materials outside of the permit area;
 - (6) not play or emit amplified sound or live music in any permit area;
 - (7) ensure that marketing display stands that come into direct contact with food must:
 - (a) be corrosion resistant and non-toxic;

- (b) be free from cracks, crevices and open seams; and
 - (c) have a bottom that is placed no less than fifteen centimetres above ground.
- (8) ensure that any screens or fencing in the permit area is:
- (a) temporary in nature;
 - (b) of suitable and uniform materials;
 - (c) kept in good repair in a safe condition, and free from hazards including trip hazards; and
 - (d) provides accessibility and detection for the visually-impaired.
- (9) meets the minimum separation distances to utilities or public infrastructure established by Council as required for safety, operations and maintenance as determined by the General Manager.

ARTICLE 12
Amendments to Permit Area and Temporary Removals

§ 742-12.1. Reduction or relocation of permit area.

- A. The Executive Director, or General Manager in the case of public parklets, may direct a permit holder to reduce the size of a permit area or relocate a permit area at any time if, in the opinion of the Executive Director, the permit area poses a risk to the health or safety of any person, and where the reduction or relocation terminates the risk to the health and safety of any person, to the satisfaction of the Executive Director or General Manager.
- B. The Executive Director, or General Manager in the case of public parklets, may amend the size and/or location of all permit areas along a street if the street is subject to substantial reconstruction and/or redesign in order to satisfy the pedestrian clearway requirements of this Chapter following such reconstruction and/or redesign.
- C. Where a permit area is reduced in accordance with this section, the Executive Director shall refund the permit holder the pro-rated portion of the annual permit fee applicable to the reduced area by square metre to each remaining day in the permit term.

§ 742-12.2. Temporary removal for civil works or emergencies.

- A. The Executive Director, or General Manager in the case of public parklets, may require the permit holder, upon notice, to temporarily remove all sidewalk café and marketing display installations due to planned street improvements and/or civic works.

- B. The Executive Director, or General Manager in the case of public parklets, may direct that any installation be removed from within a permit area without notice in the case of an emergency.
- C. Where a permit is cancelled or installations in a permit area are temporarily removed due to an emergency, planned street improvement or civic works, the Executive Director shall refund the permit holder the pro-rated portion of the annual permit fee applicable for each remaining day in the permit year.

§ 742-12.3. Amendments to permit area.

- A. No permit holder shall amend the size of their permit area unless they have:
 - (1) received instruction to do so from the Executive Director or General Manager in accordance with this Article; or
 - (2) submitted a new application in accordance with Article 2 of this Chapter and had a new permit issued in accordance with Article 3 of this Chapter.

ARTICLE 13
Permit Cancellation, Suspension

§ 742-13.1. Permit cancellation.

- A. Community Council may cancel a permit at any time and for any reason.
- B. Where Community Council is considering revocation of a permit, the affected permit holder shall receive notice of the item on the agenda and be allowed to speak to the matter before Community Council makes its decision.
- C. A permit holder shall not be eligible to apply for a sidewalk café, public parklet, or marketing display permit under this Chapter for one year following cancellation of a permit by Community Council.
- D. The Executive Director, or General Manager in the case of public parklets, may cancel a permit without reporting to Community Council if:
 - (1) the annual permit fee for the applicable zone has not been paid 90 days after the payment due date;
 - (2) the permit was obtained through the submission of false, misleading or fraudulent information;
 - (3) the permit holder has failed to remove all the sidewalk café, public parklet, or marketing display elements from the sidewalk or street within thirty days of receiving notice in writing from the Executive Director, or General Manager in the case of public parklets, instructing the permit holder to remove all elements from the sidewalk or street;

- (4) the associated establishment lacks the applicable licence under Chapter 545, Licensing; or
 - (5) the associated establishment is demolished, substantially altered and/or subject to redevelopment.
- E. Where a permit is cancelled in accordance with Subsection D, the Executive Director or General Manager, in the case of public parklets, shall provide the permit holder a written notice of the permit cancellation, describing the information that the City has to justify the cancellation.

§ 742-13.2. Permit suspension.

- A. The Executive Director shall immediately suspend a permit without reporting to Community Council if they have reason to believe that the permit holder has not complied with § 742-9.1 or § 742-9.6.
- B. A suspension issued by the Executive Director under Subsection A shall last until the next April 14.
- C. Where a permit is suspended in accordance with Subsection A, the Executive Director shall to provide the permit holder with a written notice of the suspension, describing the information that the City has to justify the temporary suspension.
- D. Where a permit is suspended in accordance with Subsection A, the permit holder shall remove all permit elements, including fencing, from the permit area and not permit any sidewalk café or marketing display elements or activities in the permit area during the suspension period.
- E. The Executive Director, or General Manager in the case of public parklets, shall immediately suspend a permit for a period of 30 days or until such time as the item can be considered by Community Council if:
 - (1) in the opinion of the Executive Director or the General Manager, a reduction in permit area has not terminated a risk to public health and safety;
 - (2) the provisions of the permit agreement are being violated by the permit holder;
 - (3) the permit holder is conducting activity in such a way that would infringe on the rights of other members of the public; or
 - (4) the permit holder has violated any law or by-law.
- F. Following the issuance of a permit suspension under Subsection E, the Executive Director, or General Manager in the case of public parklets, shall forward a report to Community Council with the following:

- (1) a summary of the reason for the suspension;
 - (2) the recommendation for a review of the permit conditions, including but not limited to operating hours, or revocation of the permit.
- G. Where a permit is suspended in accordance with Subsection E, the Executive Director shall provide the permit holder with a written notice of the permit suspension, describing the information that the City has to justify the suspension.
- H. Where a permit is suspended in accordance with Subsection E, the permit holder shall remove all permit elements, including fencing, from the permit area and not permit any sidewalk café or marketing display elements or activities in the permit area during the suspension period.
- I. Before Community Council considers a report under Subsection F:
- (1) the City Clerk shall provide notice to the affected permit holder of the date which Community Council will consider the item; and
 - (2) the permit holder shall be given an opportunity to speak on the matter at Community Council.

§ 742-13.3. Recovery of permit.

- A. No person shall display a permit issued by the Executive Director:
- (1) while the permit has been suspended;
 - (2) after the permit has been cancelled; or
 - (3) where a permit is otherwise invalid.
- B. The Executive Director shall recover a permit notice displayed on a street door or in a lower front window of an associated establishment during the period of time when the permit has been suspended, or permanently in the case of a cancellation.

§ 742-13.4. Permit holder responsibilities.

- A. Within 30 days of receiving written notice of a permit cancellation, permit suspension, permit area reduction, permit area relocation or temporary removal, a permit holder shall:
- (1) remove all equipment, furnishings and personal property from the permit area, or applicable portion thereof, at the permit holder's own expense; and
 - (2) replace and restore the sidewalk or street to a safe and proper condition to the satisfaction of the Executive Director, or General Manager in the case of a public parklet.

- B. No permit holder shall make a claim against the City on account of a removal of permit elements under this Chapter.

ARTICLE 14
Offences, Entry to Inspect, Orders

§ 742-14.1. Offences.

- A. Every person who contravenes any provision of this Chapter, or a notice of violation or direction or order issued in accordance with this Chapter, is guilty of an offence and on conviction is liable to a fine of no more than \$100,000.
- B. In addition to a fine or fines provided for in this section every person who gains an economic advantage or economic gain from contravening this Chapter, or a notice of violation or direction or order issued in accordance with this Chapter, shall be liable to a special fine in an amount equal to the fair market value of the economic advantage or economic gain so obtained from the contravention.
- C. In addition to offences referred to in Subsection A, every person is guilty of an offence under this Chapter who:
- (1) Hinders or obstructs or attempts to hinder or obstruct any person exercising a power or performing a duty under this Chapter;
 - (2) Neglects or refuses to produce or provide any information or thing to any person acting pursuant to an order made under section 378 of the City of Toronto Act, 2006;
 - (3) Knowingly makes, participates in, assents to or acquiesces in the provision of false information in a statement, affidavit, application or other document prepared, submitted or filed under this Chapter.
- D. Where a corporation contravenes any of the provisions of this Chapter, or a notice of violation or direction or order issued in accordance with this Chapter, every director or officer who concurs in such contravention is guilty of an offence and, upon conviction, is liable to a fine of no more than \$100,000.
- E. Each offence is designated as a continuing offence and is subject to, for each day or part of a day that the offence continues a maximum fine of no more than \$10,000. The total of all of the daily fines imposed for each offence may exceed \$100,000.

§ 742-14.2. Entry to inspect.

- A. In accordance with section 376 of the City of Toronto Act, 2006, an officer may enter upon land within the City at any reasonable time for the purpose of carrying out inspections to determine whether the following are being complied with:
- (1) This Chapter; or

- (2) A notice or order issued in accordance with this Chapter.
- B. For the purposes of an inspection under Subsection A, an officer may:
- (1) Require, for inspection, the production of documents or things relevant to the inspection;
 - (2) Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts of them;
 - (3) Require information from any person concerning a matter related to the inspection;
 - (4) Be accompanied by such person or persons as the officer determines is necessary if such person or persons possesses special or expert knowledge related to the purpose of the inspection; and
 - (5) Make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

§ 742-14.3. Orders to comply.

- A. An officer who finds a contravention of this Chapter may make one or more orders requiring discontinuance of the contravening activity or to do work to correct the contravention under section 384 or 385 of the City of Toronto Act, 2006.
- B. An order or notice of violation may be of immediate effect should the Executive Director determine that a delay would result in circumstances that endanger the health or safety of any person or similarly serious consequences.
- C. The order may be served personally on the person to whom it is directed or by registered mail to the last known address of that person, in which case it shall be deemed to have been given on the third day after it is mailed.
- D. If there is evidence that a permit holder is not the registered property owner of the associated establishment, the notice may be served on both the registered property owner of the associated establishment and the permit holder.
- E. If the address of the owner is unknown or the City is unable to effect service on the owner or occupant under Subsection C, a placard stating the terms of the order and placed in a conspicuous place upon land on or near the associated establishment shall be deemed to be sufficient notice to the owner.
- F. If the delay necessary to serve an order or notice of violation under Subsection C would result in circumstances that endanger the health or safety of any person or similarly serious consequences, the order or notice of violation may be served by a placard stating the terms of the order or notice of violation and placed in a conspicuous place upon land

on or near the associated establishment.

§ 742-14.4. Remedial action.

If a person fails to comply with an order to do work to correct a contravention of this Chapter, the Executive Director or General Manager, or persons acting upon either of their instructions, may enter the lands at any reasonable time for the purposes of doing the things described in the order at the person's expense.

§ 742-14.5 Seizure of goods

- A. The Executive Director or General Manager may move, take, or store a permit holder's sales goods or café elements and any other things placed or installed in a permit area in accordance with the Repair and Storage Liens Act where a permit holder is in contravention of this Chapter.
- B. The Executive Director or General Manager may charge the costs of the removal and storage to the permit holder and/or owner of the associated establishment and/or recover those costs by adding them to the tax roll and collecting them in the same manner as property taxes.
- C. Any seized goods or café elements that remain unclaimed after 60 days from the date of seizure become the property of the City and can be sold.
- D. Any seized perishable object or refreshment become a property of the City upon removal and can be disposed of immediately.

**ARTICLE 15
Transition**

§ 742-15.1. Transition.

- A. Existing permit holders can continue to operate under the terms and conditions of their approved permit and agreement with the City as of the day before this Chapter came into force, except for the following requirements whereby existing permit holders must comply with this Chapter immediately upon its coming into force:
 - (1) permit renewal (§ 742-5.1C); permit requirements (§ 742-5.2); permit transfer (§ 742-6.1); usage of permit area (§ 742-9.1); seasonal operation (§ 742-9.5 except for § 742-9.5A(2)); radiant heaters (§ 742-10.8); portable propane heaters (§ 742-10.9); height limitation on the display of marketing materials and merchandise (§ 742-11.1A(4)); reduction or relocation of permit area (§ 742-12.1); temporary removal for civil works or emergencies (§ 742-12.2); amendments to permit area (§ 742-12.3); Offences, Entry to Inspect, Orders (Article 14); permit holder responsibilities (§ 742-13.4); and all fee requirements.

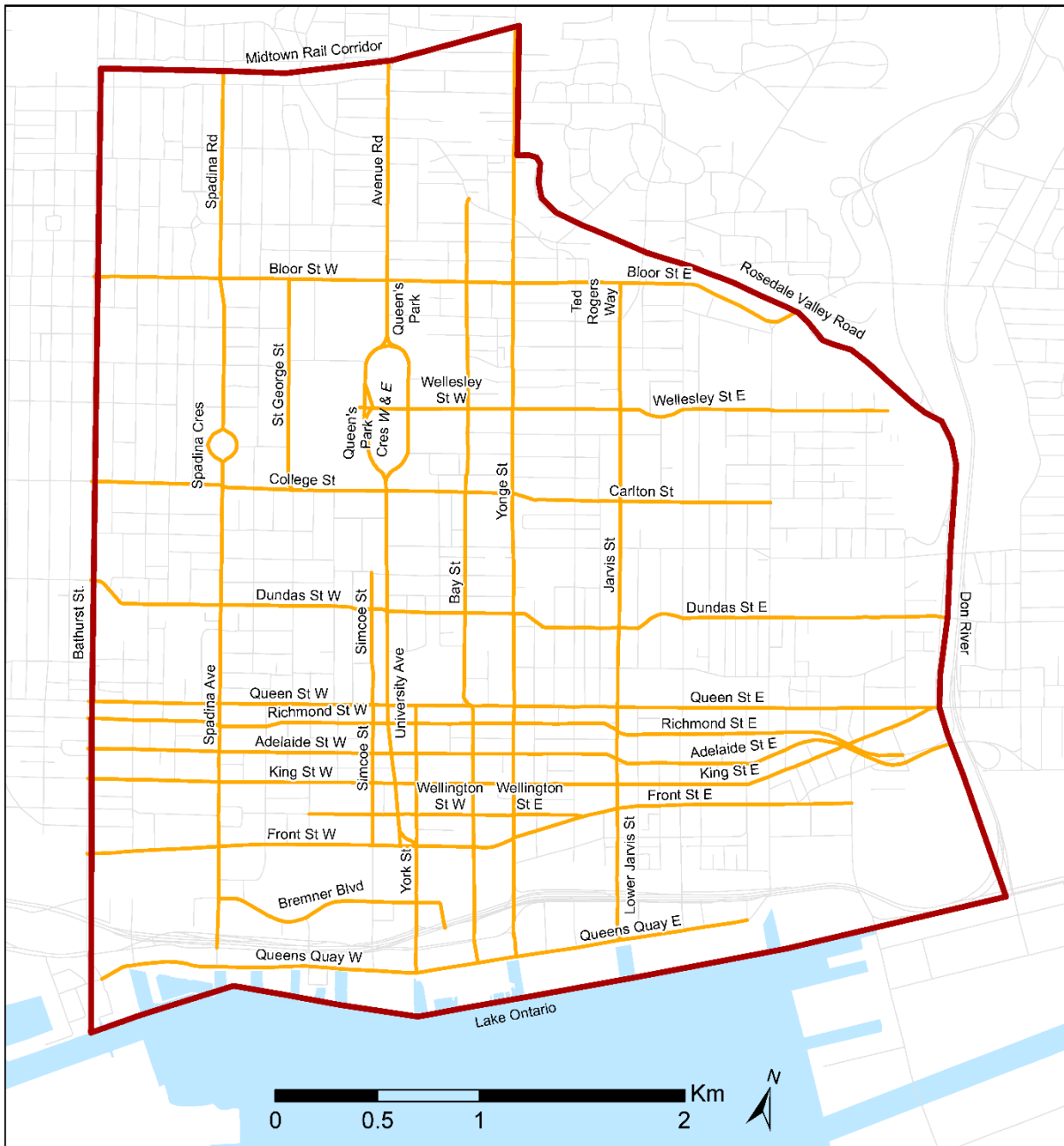
APPENDIX A
DOWNTOWN STREETS FOR PEDESTRIAN CLEARWAY PURPOSES

For the purposes of § 742-7.1A(3), the streets in the area outlined in Appendix A shall be the following streets within the boundaries of Bathurst Street to the west, the midtown rail corridor to the north, Rosedale Valley Road to the north east, the Don River to the east, and Lake Ontario to the south:

Adelaide Street East between Yonge Street and the Don River
Adelaide Street West between Bathurst Street and Yonge Street
Avenue Road between the Midtown Rail Corridor and Bloor Street West
Bay Street between Davenport Road and Queens Quay West
Bloor Street East between Yonge Street and Rosedale Valley Road
Bloor Street West between Bathurst Street and Yonge Street
Bremner Boulevard between Spadina Avenue and Lakeshore Boulevard West
Carlton Street between Yonge Street and Parliament Street
College Street between Bathurst Street and Yonge Street
Dundas Street East between Yonge Street and the Don River
Dundas Street West between Bathurst Street and Yonge Street
Front Street East between Yonge Street and Cherry Street
Front Street West between Bathurst Street and Yonge Street
Jarvis Street between Charles Street East and Front Street East
King Street East between Yonge Street and the Don River
King Street West between Bathurst Street and Yonge Street
Lower Jarvis Street between Front Street and Queens Quay East
Queen Street East between Yonge Street and the Don River
Queen Street West between Bathurst Street and Yonge Street
Queens Park between Bloor Street West and College Street
Queens Park Crescent East and West (in its entirety)
Queens Quay East between Yonge Street and Parliament Street
Queens Quay West between Bathurst Street and Yonge Street
Richmond Street East between Yonge Street and Eastern Avenue
Richmond Street West between Bathurst Street and Yonge Street
Simcoe Street between Elm Street and Front Street West
Spadina Avenue between Bloor Street West and Spadina Crescent
Spadina Avenue between Spadina Crescent and Queens Quay West
Spadina Crescent between Spadina Road and Spadina Avenue
Spadina Road between the Midtown Rail Corridor and Bloor Street West
St George Street between Bloor Street West and College Street
Ted Rogers Way between Bloor Street East and Charles Street East
University Avenue between College Street and Front Street West
Wellesley Street East (in its entirety)
Wellesley Street West between Queens Park Crescent West and Yonge Street
Wellington Street East between Yonge Street and Front Street East
Wellington Street West between John Street and Yonge Street
Yonge Street between the Midtown Rail Corridor and Queens Quay
York Street between Queen Street West and Queens Quay West

The streets and area described above are also displayed in Map 1:

MAP 1: DOWNTOWN STREETS FOR PEDESTRIAN CLEARWAY PURPOSES



Downtown Streets Where Wider Pedestrian Clearways Are Required for Sidewalks Wider Than 5 Metres

Legend

- Streets
- Other Streets/Roadways
- Downtown Plan Boundary
- Lake Ontario

APPENDIX B
FEE ZONES

For the purpose of fees payable under this Chapter and Chapter 441, Fees and Charges, the zones shall be as follows:

The central zone shall be the lands displayed in Map 2, being the lands within the area that is bounded by Lake Ontario to the south, Bathurst Street to the west, the mid-town rail corridor and Rosedale Valley Road to the north and the Don River to the east. The central zone shall not include properties fronting any border street.

The outer zone shall be all parts of the City excluding lands within the central zone as described above.

MAP 2: CENTRAL ZONE

