

Authority: Planning and Housing Committee Item PH7.2,
adopted as amended, by City of Toronto Council on
November 8 and 9, 2023
City Council voted in favour of this by-law on
November 9, 2023
Written approval of this by-law was given by Mayoral
Decision 23-2023 dated November 9, 2023

CITY OF TORONTO

BY-LAW 1154-2023

To repeal By-law 236-2022 and to reduce zoning restrictions on outdoor patios located on private properties through zoning regulations that prevail over the former municipal zoning by-laws, which by-laws include:

By-law 438-86 (being the Zoning By-law of the former City of Toronto), as amended, By-law 291-68 (being the Forest Hill Zoning By-law), as amended, and By-law 278-73 (being the Swansea Zoning By-law), as amended, and predecessor zoning by-laws as applicable;

By-law 7625 (being the Zoning By-law of the former City of North York), as amended, and predecessor zoning by-laws as applicable;

By-law 1-83 (being the Zoning By-law of the former City of York), as amended, and predecessor zoning by-laws as applicable;

Zoning Code of the City of Etobicoke, Canada, V131 (being the Zoning Code of the former City of Etobicoke), as amended, including By-laws 1978-83 and 1204-2007(OMB) for the Sherway Gardens Lands, and predecessor zoning by-laws as applicable;

Borough of East York Zoning By-law 1916 (Town of Leaside), as amended, and By-law 6752 (Township Of East York), as amended, (being the Zoning By-laws of the former Borough of East York), and predecessor zoning by-laws as applicable; and

The Corporation of the City of Scarborough By-laws 10076 (Agincourt); 12797 (Agincourt North); 8786 (Birchcliff); 9350 (Bendale); 9174 (Birchmount Park); 9396 (Cliffcrest); 12077 (Centennial); 8978 (Clairlea); 9364 (Cliffside); 9508 (Dorset Park); 10048 (Eglinton); 9676 (Guildwood); 10827 (Highland Creek); 9089 (Ionview); 9276 (Kennedy Park); 12466 (L'amoreaux); 14402 (Malvern); 12181 (Malvern West); 842-2004 (Midland St.Clair); 17677 (Milliken); Morningside Heights; 11883 (Morningside); 9366 (Maryvale); 9812 (Oakridge); 15907 (Rouge); 10010 (Scarborough Village); 16762 (Steeles); 10717 (Sullivan); 12360 (Tam O'Shanter); 25278 (Upper Rouge - Hillside); 950-2005 (Warden Woods); 9511 (Wexford); 10327 (West Hill); 9510 (Woburn); Employment Districts Zoning By-law 24982; Industrial District By-law 12790 (Centennial Industrial District); The Corporation Of The Township Of Pickering By-law 1978; By-law 3036 (Highway 2 Area in Rouge Community), (being the Zoning By-laws of the former City of Scarborough), all as amended, and predecessor zoning by-laws as applicable.

Whereas Council of the City of Toronto has the authority pursuant to Section 34 of the Planning, R.S.O. 1990, c. P.13, as amended, to pass this By-law; and

Whereas Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the Planning Act, as amended;

The Council of the City of Toronto enacts:

1. For the purpose of this By-law, the following definitions apply:
 - (A) "accessible" means free of a physical, architectural or design barrier that would restrict access or use to a person with a disability;
 - (B) "amusement arcade" means premises where more than 2 amusement devices are provided for patron use on the premises;
 - (C) "amusement devices" means a machine or electronic device used for games of skill or chance other than:
 - (i) billiards;
 - (ii) bowling; and
 - (iii) any gaming or lottery device regulated under Province of Ontario legislation;
 - (D) "ancillary" means naturally and normally incidental, subordinate in purpose or floor area, and exclusively devoted to a permitted use, building or structure;
 - (E) "building" means a wholly or partially enclosed structure with a roof supported by walls, columns, piers or other structural systems;
 - (F) "cabaret" means premises used to provide entertainment such as a dinner theatre or comedy club, where patrons are seated at tables and where food or beverages may be offered for sale;
 - (G) "club" means premises:
 - (i) operated by members of a non-profit organization that maintains formal membership and generally limits attendance at meetings to members; and
 - (ii) used for meetings and gatherings for social, cultural, recreational, charitable or community service purposes;
 - (H) "disability" has the same meaning as Section 2 of the Accessibility for Ontarians with Disabilities Act, 2005;

- (I) "eating establishment" means premises where food or beverages are prepared and offered for sale to patrons for immediate consumption on the premises while they are seated, and which may include an incidental take-out service;
- (J) "entertainment place of assembly" means premises used to provide entertainment, such as a theatre, cinema, opera, concert hall or ballet. An adult entertainment use, an eating establishment, a cabaret, or a nightclub is not an entertainment place of assembly;
- (K) "exclusively residential zoned" means lands upon which a former general zoning by-law permits residential uses, including but not limited to dwelling units, houses, or apartments, and a restaurant is not permitted;
- (L) "former general zoning by-law" has the same meaning provided in Regulation 800.50(206) of By-law 569-2013, as amended;
- (M) "interior floor area" means the floor area of any part of a building, measured to:
- (i) The interior side of a main wall;
 - (ii) The centreline of an interior wall; or
 - (iii) A line delineating a part being measured;
- (N) "lot" means single parcel or tract of land that:
- (i) May be conveyed in compliance with the provisions of the Planning Act; and
 - (ii) Is not included in the Zoning By-law Map of 569-2013, as amended;
- (O) "main wall" means any exterior wall of a building or structure, including all structural members essential to the support of a roof over a fully or partly enclosed area;
- (P) "major street" means those streets which are delineated as "major streets" in Section 995.10 of Zoning By-law 569-2013;
- (Q) "nightclub" means premises used to provide dance facilities for patrons and where food or beverages may be offered for sale, such as a dance hall or disco;
- (R) "outdoor patio" means an outdoor patron area that is ancillary to a non-residential use;
- (S) "place of assembly" means premises used for social, cultural, educational or trade events, such as a banquet hall, convention or trade centre, or a hall used for bingo or other lottery events licensed by the City of Toronto for charitable purposes;

- (T) "premises" means the whole or part of lands, buildings or structures, or any combination of these;
 - (U) "recreation use" means premises used for sports, physical play or exercise, such as a fitness club, bowling alley, billiards hall or pool hall, swimming pool or skating rink;
 - (V) "restaurant" means any non-residential use:
 - (i) in which the preparation and offering for sale of food or beverages to patrons for consumption on or off the premises forms a principal function; and
 - (ii) which forms all or part of a use described and permitted on a lot governed by one of the former general zoning by-laws;
 - (W) "retail store" means premises in which goods or commodities are sold, rented or leased;
 - (X) "sports place of assembly" means premises used for spectator sporting events, such as a stadium or arena;
 - (Y) "structure" means anything that is erected building or constructed of one or more parts joined together; and
 - (Z) "take-out eating establishment" means premises where food or beverages are prepared and offered for sale to patrons for consumption off the premises.
2. Despite any regulation in any former general zoning by-law to the contrary, excluding any area-specific or site-specific exception, an outdoor patio is permitted in combination with a permitted amusement arcade, cabaret, club, eating establishment, entertainment place of assembly, nightclub, place of assembly, recreation use, restaurant, sports place of assembly or take-out eating establishment, provided:
- (A) no portion of the outdoor patio is located within 30 metres of an exclusively residentially zoned lot;
 - (B) no portion of the outdoor patio is located above the first storey of the building;
 - (C) the outdoor patio does not exceed an area equal to the greater of:
 - (i) 50 square metres; or
 - (ii) 50 percent of the interior floor area of the premises it is associated with.
 - (D) The outdoor patio may be used to provide entertainment such as performances, music and dancing, provided the outdoor patio is not located above the first storey of the building and the entertainment area does not exceed the greater of 10

percent of the outdoor patio area or 5.0 square metres. If the outdoor patio is on a lot in an industrial zone, it must be located on a major street to be able to provide entertainment. And where any of the above regulatory standards conflict with a more permissive regulatory standard in the former general zoning by-law, the more permissive regulatory standard prevails.

3. Despite any regulation in any former general zoning by-law to the contrary, an outdoor patio may occupy the area of a surface parking space on a lot, and any adjacent portion of a drive aisle providing sole access thereto, and the occupied parking space continues to satisfy any requirement for parking spaces in the former general zoning by-law for any non-residential or residential use if the parking space is not required for a residential occupant, residential visitor if the reduction of required residential visitor parking spaces does not exceed 50 percent of the requirement, and is not an accessible parking space.
4. Despite any regulation in any former general zoning by-law to the contrary, an outdoor patio may be located on an abutting lot to which the use it is combined with, if the abutting lot permits an outdoor patio.
5. By-law 236-2022 is repealed.

Enacted and passed on November 9, 2023.

Frances Nunziata,
Speaker

John D. Elvidge,
City Clerk

(Seal of the City)