

Attachment 1 - Amendments to Chapter 771, Third Party Sign Tax with respect to clarifying certain TSPT Exemptions and other administrative changes.

BY-LAW No.

To make amendments to clarify the intended and correct interpretation of certain exemptions contained in Chapter 771, Taxation, Third Party Sign Tax and implement other administrative changes.

WHEREAS subsection 267(1) of the *City of Toronto Act, 2006* (the "Act") provides that the City may, by by-law, impose a tax in the City if the tax is a direct tax, if the by-law satisfies the criteria described in subsection 267(3) and if such other conditions as may be prescribed are also satisfied; and

WHEREAS subsection 267(4) of the Act provides that a by-law enacted pursuant to subsection 267(1) may provide for the following:

- (a) exemptions from the tax;
- (b) rebates of tax;
- (c) penalties for failing to comply with the by-law;
- (d) interest on outstanding taxes or penalties;
- (e) the assessment of outstanding tax, penalties or interest;
- (f) audit and inspection powers;
- (g) the establishment and use of dispute resolution mechanisms;
- (h) the establishment and use of such enforcement measures as the Council considers appropriate if an amount assessed for outstanding tax, penalties or interest remains unpaid after it is due; and

WHEREAS at its meetings of November 30, December 1, 2, 4 and 7, 2009, Council adopted a third party sign tax to be imposed on owners of third party signs located within the City of Toronto for the purpose of supplementing the revenue of the City, pursuant to its power to impose taxes as provided for in Part X under the Act including expressly adopting a series of exemptions from the third party sign tax for certain owners of third party signs located within the City of Toronto, which did not include an exemption for a person or entity who has entered into a revenue sharing agreement with a local board, as defined by the Act; and,

WHEREAS City Council wishes to ensure that these owners who were never intended to be exempted from third party sign tax, and the public at large, are without any doubt as to the intended scope of the exemptions from the third party sign tax for certain owners of third party signs, specifically that the provided exemptions from the third party sign tax for certain owners of third party signs do not provide an exemption from the third party sign tax for persons or entities who

have entered into a revenue sharing agreement with a local board, as defined by the Act; and,

WHEREAS City Council wishes to impose the intended interpretation on all owners, and to expressly recognize and intend the amendment have any and all retroactive effects and impacts that may be required to implement such an intention with respect to the exemptions; and,

WHEREAS Council seeks to update the terminology utilized with respect to Third Party Signs, and associated sign classes, as well as the indexing formula for the purpose of improving the administration of the third party sign tax; and,

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Chapter 771, Taxation, Third Party Sign Tax, of The City of Toronto Municipal Code is amended as follows:

A. adding the following definitions to section 771-2 in alphabetical order:

Electronic Fuel Pump signs - Has the same meaning as in Chapter 694, Signs, General

Electronic Ground signs - Has the same meaning as in Chapter 694, Signs, General

Electronic Overhanging Structure signs - Has the same meaning as in Chapter 694, Signs, General;

Electronic Projecting signs - Has the same meaning as in Chapter 694, Signs, General;

Electronic Roof signs - Has the same meaning as in Chapter 694, Signs, General;

Electronic Topiary signs - Has the same meaning as in Chapter 694, Signs, General;

Electronic Window signs - Has the same meaning as in Chapter 694, Signs, General;

Electronic Wall signs - Has the same meaning as in Chapter 694, Signs, General;

Projected Image signs - Has the same meaning as in Chapter 694, Signs, General; and,

Topiary Wall signs - Has the same meaning as in Chapter 694, Signs, General.

B. By replacing the definition of Sign Class within section 771-2 with the following:

SIGN CLASS - means the designation listed in section 771-6.1:

C. By adding the following section as section 771-6.1:

§ 771-6.1. Sign Class

A. Every Third Party Sign shall be designated as belonging to a sign class in accordance with the following:

(1) Class I:

(a) Ground signs, fuel pump signs, topiary signs, or topiary wall signs only displaying static copy with an aggregate sign face area of less than or equal to 15 square metres; and

(b) Wall signs, overhanging structure signs, window signs, or projecting signs only displaying static copy with an aggregate sign face area of less than or equal to 25 square metres;

(2) Class II:

(a) Ground signs, fuel pump signs, topiary signs, or topiary wall signs only displaying static copy with an aggregate sign face area greater than 15 square metres and less than 45 square metres;

(b) Wall signs, overhanging structure signs, window signs, or projecting signs only displaying static copy with an aggregate sign face area greater than 25 square metres but less than 45 square metres; and

(c) Wall signs, overhanging structure signs, window signs, or projecting signs displaying mechanical copy, in whole or in part, with an aggregate sign face area of less than or equal to 25 square metres;

(3) Class III:

(a) Ground signs, fuel pump signs, or topiary signs, or topiary wall signs displaying mechanical copy, in whole or in part, with an aggregate sign face area of less than or equal to 25 square metres; and

(b) Roof signs displaying static or mechanical copy, in whole or in part, with an aggregate sign face area less than or equal to 45 square metres;

(4) Class IV:

(a) Ground signs, fuel pump signs, topiary signs, or topiary wall signs only displaying static copy with an aggregate sign face area greater than 45 square metres;

(b) Ground signs, fuel pump signs, topiary signs, or topiary wall signs displaying mechanical copy, in whole or in part, with an aggregate sign face area greater than 25 square metres;

(c) Wall signs, overhanging structure signs, window signs, or projecting signs only displaying static copy with an aggregate sign face area greater than 45 square metres;

(d) Wall signs, overhanging structure signs, window signs, or projecting signs displaying mechanical copy, in whole or in part, with an aggregate sign face area greater than 25 square metres; and

(e) Roof signs displaying static or mechanical copy, in whole or in part with an aggregate sign face area greater than 45 square metres; and

(5) Class V:

(a) All signs displaying or containing electronic static copy or electronic moving copy.

D. By deleting subsections 771-7C and D;

E. By replacing subsection 771-7B with the following:

B. In the case of joint owners of a single third party sign, the amount of tax payable under §§ 771-7A and 771-7A.1 in respect of that third party sign shall be imposed jointly on both owners and each owner is jointly and severally liable for the amount of tax payable.

F. By adding the phrase "which for greater clarity, does not include an Owner who has entered into a revenue sharing agreement with a local board." to subsection 771-8K after the phrase "During the term of a revenue sharing agreement with the City of Toronto, an Owner who has entered into a revenue sharing agreement with the City of Toronto" so that it now reads:

K. During the term of a revenue sharing agreement with the City of Toronto, an Owner who has entered into a revenue sharing agreement with the City of Toronto, which for greater clarity, does not include an Owner who has entered into a revenue sharing agreement with a local board.

G. adding the following section to 771-1 as subsection 771-1C:

C. For greater clarification, all references to a local board within this Chapter shall include a "city board" which in accordance with s.142(3) of the City of Toronto Act, 2006, is established as having the status of a local board, for all purposes, and is expressly included in the listed entities comprising a local board in the definition of local board contained s.3(1) of the *City of Toronto Act, 2006*;

H. adding the following section as Section 771-8.1:

§ 771-8.1. Retroactive Effect

A. Notwithstanding anything else in this chapter, the phrase "City of Toronto" in subsection 771-8K will not be interpreted as including a local board, for any reason, concerning the application of the Chapter, or the imposition of tax thereunder, in relation to any matter arising on or after February 23, 2010.

Attachment 2 - Amendments to Chapter 771, Third Party Sign Tax with respect to the defined Sign Classes and associated tax rates to commence 2019.

BY-LAW No.

To amend Tax Rates contained in Chapter 771, Taxation, Third Party Sign Tax.

WHEREAS subsection 267(1) of the *City of Toronto Act, 2006* (the "Act") provides that the City may, by by-law, impose a tax in the City if the tax is a direct tax, if the by-law satisfies the criteria described in subsection 267(3), and if such other conditions as may be prescribed are also satisfied; and

WHEREAS at its meetings of November 30, December 1, 2, 4 and 7, 2009, Council adopted a third party sign tax to be imposed on owners of third party signs located within the City of Toronto for the purpose of supplementing the revenue of the City, pursuant to its power to impose taxes as provided for in Part X under the Act, and adopted tax design features of the third party sign tax, including creating a series of sign classes, and a corresponding series of tax rates for the annual flat tax charged with respect to signs contained in the various sign classes; and,

WHEREAS City Council wishes to amend the tax rates charged due to the modification to various sign classes;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Chapter 771, Taxation, Third Party Sign Tax, of The City of Toronto Municipal Code is amended as follows:

A. By adding the following section as Section 771-7A.1:

A.1 Commencing January 1, 2019, tax with respect to a calendar year commencing on or after January 1, 2019 is payable at the following annual rates:

	Class I Signs	Class II Signs	Class III Signs	Class IV Signs	Class V Signs	Class VI Signs
2019	Previous year's tax rate + Annual Increase	Previous year's tax rate + Annual Increase	Previous year's tax rate + Annual Increase	Previous year's tax rate + Annual Increase	\$31,000.00	\$42,500.00

Each subsequent year	Previous year's tax rate + Annual Increase	Previous year's tax rate + Annual Increase	Previous year's tax rate + Annual Increase	Previous year's tax rate + Annual Increase	Previous year's tax rate + Annual Increase	Previous year's tax rate + Annual Increase
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B. By replacing the definition of ANNUAL INCREASE within section 771-2 with the following:

ANNUAL INCREASE - The previous year's tax rate multiplied by the percentage change in Statistics Canada's Toronto Consumer Price Index (*All Items*), as calculated by the Chief Financial Officer.

C. By adding the following subsection to Section 771-6.1 as subsection B:

B. For purposes of Tax assessed as payable in respect of an owned third party sign for a calendar year commencing on or after January 1, 2019, every Third Party Sign shall be designated as belonging to a sign class in accordance with the following:

(1) Class I:

- (1) Ground signs, or fuel pump signs, only displaying static copy with an aggregate sign face area of less than or equal to 15 square metres;
- (2) Wall signs, topiary wall signs, overhanging structure signs, window signs, or projecting signs displaying static copy, or mechanical copy, with an aggregate sign face area of less than or equal to 15 square metres;
- and,
- (3) Topiary signs displaying static copy, or mechanical copy, with an aggregate sign face area of less than or equal to 45 square metres;

(2) Class II:

- (a) Ground signs, fuel pump signs, only displaying static copy with an aggregate sign face area greater than 15 square metres and less than 45 square metres;
- (b) Ground signs, or fuel pump signs, displaying mechanical copy, in whole or in part, with an aggregate sign face area of less than or equal to 25 square metres;
- (c) Topiary signs displaying static copy, or mechanical copy, with an aggregate sign face area greater than 45 square metres;
- (d) Wall signs, topiary wall signs, overhanging structure signs, window signs, or projecting signs only displaying static copy with an aggregate sign face area greater than 15 square metres but less than 45 square metres;
- (e) Wall signs, topiary wall signs, overhanging structure signs, window signs, or projecting signs displaying mechanical copy, in whole or in part,

with an aggregate sign face area greater than 15 square metres but less than 45 square metres;

- (f) Roof signs displaying static copy, or mechanical copy, with an aggregate sign face area less than or equal to 25 square metres; and,
- (g) Electronic wall signs and Electronic ground signs with an aggregate sign face area less than or equal to 5 square metres;

(3) Class III:

- (a) Ground signs, or fuel pump signs, displaying mechanical copy, in whole or in part, with an aggregate sign face area greater than 25 square metres but less than or equal to 45 square metres;
- (b) Roof signs displaying static copy, or mechanical copy, with an aggregate sign face area greater than 25 square metres but less than 45 square metres;
- (c) Electronic wall signs with an aggregate sign face area greater than 5 square metres but less than or equal to 25 square metres;
- (d) Overhanging structure signs, or projecting signs, only displaying static copy with an aggregate sign face area greater than 15 square metres but less than 45 square metres; and,
- (e) Overhanging structure signs, or projecting signs displaying mechanical copy, in whole or in part, with an aggregate sign face area greater than 15 square metres but less than 45 square metres;

(4) Class IV:

- (a) Ground signs, or fuel pump signs displaying static copy, or mechanical copy, with an aggregate sign face area greater than 45 square metres;
- (b) Wall signs, topiary wall signs, overhanging structure signs, window signs, or projecting signs only displaying static copy with an aggregate sign face area greater than 45 square metres;
- (c) Wall signs, topiary wall signs, overhanging structure signs, window signs, or projecting signs displaying mechanical copy, in whole or in part, with an aggregate sign face area greater than 45 square metres;
- (d) Roof signs displaying static copy, or mechanical copy, with an aggregate sign face area greater than 45 square metres;
- (e) Electronic ground signs with an aggregate sign face area greater than 5 square metres but less than or equal to 45 square metres;
- (f) Electronic wall signs with an aggregate sign face area greater than 25 square metres but less than or equal to 45 square metres; and,
- (g) Electronic roof signs, electronic projecting signs, electronic window signs and electronic overhanging structure signs with an aggregate sign face area less than 25 square metres;

(5) Class V:

- (a) All projected image signs;

(b) Electronic wall signs and electronic ground signs with an aggregate sign face area greater than 45 square metres but less than 75 square metres; and,

(c) Electronic roof signs, electronic projecting signs, electronic window signs and electronic overhanging structure signs with an aggregate sign face area greater than 25 square metres but less than 45 square metres;

(6) Class VI:

(a) Electronic wall signs and electronic ground signs with an aggregate sign face area equal to or greater than 75 square metres; and,

(b) Electronic roof signs, electronic projecting signs, electronic window signs and electronic overhanging structure signs with an aggregate sign face area equal to or greater than 45 square metres.

ATTACHMENT 3 – CHANGES TO SIGN CLASSES BETWEEN 2010 AND 2018 AND JURISDICTIONAL REVIEW

3.1 CHANGES TO THIRD PARTY SIGN INVENTORY 2010-2018

Since the implementation of the TPST in 2010, there have been many changes to the inventory of third party signs in the city; 389 third party signs have been removed, and 99 new third party signs have been constructed or approved for construction.

Table 1 below shows the number of signs that have been removed in each sign class between 2010 and 2018, and the reasons for removal.

Reason for Removal	Class 1	Class 2	Class 3	Class 4	Class 5	Total
Enforcement	35	18	1	23	0	77
Redevelopment	34	78	38	43	3	196
Exchanges	1	35	5	6	1	49
Other	4	11	48	3	1	67
Total	75	142	92	75	5	389

Since 2010, approximately half of the third party signs that were removed were removed due to redevelopment of the property. Seventy-seven (77) signs have been removed due to enforcement action taken by the City, and 49 signs have been removed as a condition of variances granted, or area-specific amendments enacted by City Council. Another 67 signs have been removed for reasons other than those listed in Table 2. These account for approximately 17% of the signs removed since 2010, and approximately 3.4% of the total number of third party signs in Toronto.

Despite the introduction of the TPST, there have been 99 third party signs constructed or approved since 2010. These new signs are broken down further by sign class in Table 2 below.

Table 2: New Signs Built or Approved from 2010 to 2018

	Class 1	Class 2	Class 3	Class 4	Class 5	Total
# of Signs	13	3	5	38	40	99

While increases have occurred in all sign classes, the majority of the new signs have been in Classes 4 and 5. This appears to indicate a shift from smaller, more traditional third party signs to larger static and mechanical signs, as well as electronic signs.

Based on the fact that the majority of the signs removed since 2010 can be accounted for, and that there have been increases in all sign classes since the inception of the TPST, it appears that the TPST has had limited impacts on the inventory of third party signs in Toronto, and that signs continue to be approved and constructed in all sign classes.

3.2 REVIEW OF OTHER JURISDICTIONS

Staff worked with Professor David Amborski to perform a review of other North American cities that have explored and/or implemented a tax on third party signs.

This review found that there are still very few municipalities in North America that currently have a tax on third party signs, although there are more examples of third party sign taxes being implemented since the TPST was introduced. This appears to be due largely to the fact that the taxation powers of many North American municipalities are limited to property taxes. The TPST is an annual flat tax, entirely unrelated to the revenues generated by any sign. Several of the cities in North America that have third party sign taxes are listed in Table 3 below.

It is important to note that jurisdictions in the United States have different tax capabilities than those in Canada. As a result, most of the U.S. cities calculate their tax amounts based on a percentage of revenues generated by the sign, whereas Canadian cities base their taxes on a flat rate (no other Ontario municipality currently has the legislative authority to implement a third party sign tax).

Table 3: Third Party Sign Taxes in other Jurisdictions

Canadian Jurisdictions with a Third Party Sign Tax	
Montreal	\$500 per year, per sign face
Winnipeg	\$34.43/sq. metre for non-electronic signs (\$3.20 per sq. ft.) \$301.28/sq. metre for electronic signs (\$28 per sq. ft.) Reported to be approximately 8% of annual sign revenues
U.S. Jurisdictions with a Third Party Sign Tax	
New York City	6% of the commercial rent tax paid on third party signs Applied to Times Square Signs only
New Jersey	4-6% of annual revenues Tax discontinued
Philadelphia	7% of annual sign revenues
Baltimore	\$53.80/sq. metre of non-electronic signs (\$5 US per sq. ft.) \$161.4/sq. metre for electronic signs (\$15 US per sq. ft.) Approx. 7.3% of annual revenues per sign Currently under appeal to the courts
Pittsburgh	10% of annual sign revenues
Los Angeles	12% of annual sign revenues has been proposed To date, not adopted

Winnipeg has recently implemented a taxation model which sets different rates for signs displaying electronic copy and signs displaying non-electronic copy. As of 2015, the rates set by Winnipeg were based on total sign face area and set at \$301.28 per square metre for electronic signs and \$34.43 per square metre for non-electronic signs.

These rates were set following a review of the Winnipeg sign tax in 2012 and included consultation with the third party sign industry operating in Winnipeg at the time. At the time, the implementation of these rates represented a 2.3 times increase for signs displaying non-electronic copy, and an 18.3 times increase for signs displaying electronic copy. Staff from the City of Winnipeg have indicated that these rate increases do not appear to have impacted the sign industry there, and that applications for third party signs (mainly electronic signs) have not slowed since these rates were introduced

Attachment 4 – Results of Public and Industry Consultations

Long Term Financial Plan and 2017 Budget Process

A series of public consultations were held from December 5-8th, 2016 as part of the development of the City's Long-Term Financial Plan. In addition, an online survey was available between November 9-20th and December 5-23rd, 2016. Throughout the consultations on the Long-Term Financial Plan, 80% of those surveyed responded that an increase in the TPST would be acceptable.

Public Consultations about the 2017 budget were held January and February 2017. As part of the 2017 budget, a 25% increase to the TPST was proposed. Members of the third party sign industry deputed on several occasions that the proposed 25% increase would have a negative impact on many of their sign locations.

Industry Consultation - February 2017

All third party sign owners (those who have received an invoice for the TPST) were invited to attend this consultation. Those in attendance re-iterated that an increase to the TPST would have a negative impact on many of their locations, as well as the need for having the sign classes re-organized to allow for greater opportunities for electronic signs in the City of Toronto.

Public Consultation – February 2017

All Ratepayer's Associations and Business Improvement Areas in the city were invited to attend this consultation. Invitations were also sent to each Councillor's office. This consultation was attended largely by members of the arts community, as well as representatives from the third party sign industry.

Discussion at this meeting focused on the increase to arts funding from the TPST between 2013 and 2016, and the significant benefits this additional funding has provided to the arts community. Third party sign industry representatives re-iterated that rate increases could result in the removal of signs and an overall reduction in TPST revenues for the City.

Industry Consultation – Mid 2017

A number of meetings were held with representatives of the outdoor advertising community and City staff over the summer of 2017. As part of the consultations, industry representatives submitted a written summary and additional information concerning the sign tax and OMAC's position on its potential implications for its members.

As the TPST is a flat, fixed annual charge based solely on the size, location and type of sign, and does not vary in any way due to the amount of revenue any sign, or sign owner, does or does not generate, the information supplied by industry was utilized as general background information concerning the general sense of the magnitude of the overall tax burden imposed by the TPST flat tax structure. The advertising industry maintained that overall increases to the TPST tax rates would increase the magnitude of the tax burden imposed by the TPST, which would have adverse impacts on the use of outdoor advertising devices. Particular concerns were raised by industry representatives with respect to the potential adverse impacts arising from increases in TPST rates applicable to "small" digital signs.

In the consultation, City staff indicated that, as a result of all of the information received, an increase to the TPST's overall tax burden was not intended to be proposed. City staff indicated that it appeared likely that staff would propose modifications to the existing sign tax classifications and applicable rates to reflect the City's general objectives concerning signage in light of policy changes arising since the introduction of the TPST. OMAC suggested that the City can encourage development of signage that is consistent with the City's objectives (promoting signage that is appropriate to its surroundings and that contributes to the enhancement of the overall public realm, and limiting any adverse environmental or other impacts of signs), while maintaining the health of the TPST.

Industry Consultation – Q1 2018

A further meeting was held with representatives of the outdoor advertising community on February 22, 2018 to provide an opportunity for industry input prior to the staff report being finalized. At that meeting, staff highlighted proposed changes to the sign class categories and definitions and provided an overview of rates being recommended for 2019.