

King Street Transit Pilot - Outdoor Cafés & Public Installations in the Curb Lane Public Spaces

Date: February 16, 2018

To: Toronto and East York Community Council

From: Director, Public Realm Section, Transportation Services

Wards: 20 (Trinity-Spadina), 28 (Toronto Centre-Rosedale)

SUMMARY

This report seeks Council authority to animate the King Street Transit Pilot area by granting temporary permits for outdoor cafés and public installations from March 29, 2018 to December 31, 2018, inclusive, and by approving the associated sections of curb lanes for these purposes.

Transportation Services will work in partnership with Municipal Licensing & Standards to review and process applications by businesses or other applicants. City staff leading the Transit Pilot project will provide guidance on the process to applicants.

RECOMMENDATIONS

The General Manager of Transportation Services recommends that:

1. City Council approve the implementation of outdoor cafés and public installations and the temporary closure, to vehicular traffic, of the required sections of the curb lanes described in Appendix A - King Street Temporary Closures for Public Spaces, attached to this report, from March 29, 2018 to December 31, 2018, inclusive, solely for the King Street Transit Pilot.
2. City Council authorize the Executive Director, Municipal Licensing and Standards, to grant temporary permits for the operation of an outdoor café within the designated public spaces as described in Appendix A - King Street Temporary Closures for Public Spaces of this report, from March 29, 2018 to December 31, 2018, inclusive, solely for the King Street Transit Pilot, subject to the following requirements:
 - a. permit holder must have a business licence for an eating establishment from the City in good standing;

- b. permit holder must pay a one-time application fee and the applicable permit fee per square metre according to Chapter 441, Fees and Charges, for outdoor cafés similar to the fee for boulevard cafés;
- c. permit holder maintains at all times a policy of Commercial General Liability insurance in an amount and form satisfactory to the City of Toronto;
- d. permit holder may be permitted to have an extended café on a curb lane that extends across a designated curb lane space of an adjacent establishment if approved by the Executive Director, Municipal Licensing and Standards;
- e. permit holder must ensure that the outdoor café is closed and cleared of all patrons by no later than 12:00 a.m. midnight on Friday and Saturday nights and 11:00 p.m. on all other nights;
- f. permit holder shall not allow amplified sound on the outdoor café;
- g. permit holder shall not allow outdoor food preparation in the permit area;
- h. permit holder shall not place or permit the placement of barbeques in the permit area;
- i. permit holder shall not obstruct, hinder, or interfere with the free access of an employee or 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;
- j. permit holder shall not interfere with curbside garbage collection;
- k. permit holder is required at all times and at their own expense, to:
 - i. maintain all portions of the permit area and the street around the permit area in clean and sanitary condition, including removing all debris and cigarette butts;
 - ii. keep any objects and furnishing associated with the permit area in good and proper repair and condition;
 - iii. secure all moveable objects, including café furniture, with cable wire or similar device during non-business hours; and
 - iv. pay all utility, service, infrastructure or other rates, fees and charges that are incurred due to the operation of the permit area;
- l. permit holder shall immediately close and remove the outdoor café on a curb lane at the expense of the permit holder if the Executive Director, Municipal Licensing and Standards provides notice to the permit holder to do so;
- m. permit holder will not assign, transfer, or sub-let the permission for the use of all or any portion of the permit area to any other person;

- n. the applicant shall provide a detailed, scaled site plan(s) to the satisfaction of the Executive Director, Municipal Licensing and Standards showing all relevant dimensions and design details of the outdoor café on a curb lane in any such application to the City;
- o. all outdoor cafés on a curb lane shall meet the specified design and installation requirements to the satisfaction of the Executive Director, Municipal Licensing and Standards as outlined in the permit agreement with the City, including terms and conditions for the outdoor café on a curb lane such as:
- i) have a secure, stable, and safe vertical barrier along the perimeter of the outdoor café on a curb lane of 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;
 - ii) include a wheel stop within the permit area at a distance of 1.2 metres from each end of the outdoor café on a curb lane, unless determined otherwise by the City; and have secure, stable and safe planters in the permit area at each end of the outdoor café on a curb lane to help protect it from moving traffic and loading vehicles;
 - iii) have retro-reflective marking tape at each end of the outdoor café on a curb lane and all its other materials must minimize glare for drivers and cyclists;
 - iv) not have jersey barriers;
 - v) have a surface that is stable, safe, and slip-resistant;
 - vi) not block stormwater drainage and overland flow;
 - vii) have all parts of any umbrellas on an outdoor café on a curb lane be set back at least 0.8 metres from its edges adjacent to the travel lanes and loading spaces;
 - viii) be removed entirely at the end of the term of the permit and the highway restored;
 - ix) have an unobstructed emergency access route between the travelled portion of the road and adjacent building entrances, in conformance with the Ontario Building Code and Fire Code;
 - x) not have any enclosures, structures, or visual screens on or over the permit area;
 - xi) meet any minimum separation distances to utilities or public infrastructure as determined by the Executive Director, Municipal Licensing and Standards;
 - xii) not place or permit the placement of any outdoor carpeting, artificial turf or other surface covering on any portion of the sidewalk or street unless otherwise reviewed and approved by the Executive Director, Municipal Licensing and Standards;
 - xiii) meet minimum pedestrian clearway requirements as determined by the City;
 - xiv) have at least one accessible entrance to the permit area that is no less than 1 metre in width and an accessible ramp if applicable;
 - xv) locate the outdoor café on a curb lane with a minimum 0.3 metres set back from the adjacent travel lane (as measured from the edge of the outdoor café on a curb lane closest to the adjacent travel lane) or

a greater dimension as determined by the City; and
xvi) meet the conditions for street work and installation (e.g., day of week and time of day and work zone coordination) as determined by the City to meet safety regulations and mitigate disruption to transit and other operations on King Street;

p. prior to receiving the permit, the business owner must enter into an agreement with the City containing terms and conditions deemed by the Executive Director, Municipal Licensing and Standards to be relevant and in accordance with the report dated February 16, 2018 from the Director, Public Realm Section, Transportation Services, including any requirements set out in Chapter 313.36E, Boulevard Cafés, deemed by the Executive Director, Municipal Licensing and Standards to be applicable, including any requirements deemed by the General Manager of Transportation Services to be applicable in Transportation Services Division's review and input on applications for outdoor cafés on a curb lane;

q. permit holder shall comply with any conditions required by the Alcohol and Gaming Commission of Ontario under the Liquor Licence Act, as applicable; and

r. failure to comply with any of the conditions set out in the permit and/or the agreement may result in the revocation of the permit in accordance with the agreement.

3. The Executive Director, Municipal Licensing and Standards, is authorized to establish any policies and procedures necessary to implement the temporary permit process set out in this report and may, as appropriate, adopt and adapt any boulevard café requirements from former City of Toronto Chapter 313 for the purposes of issuing the permit for an outdoor café on a curb lane, including but not limited to, exempting King Street Transit Pilot applicants from Chapter 313 B(5), B(6), B(7) and B(8) on public notice requirements.

4. City Council authorize the General Manager of Transportation Services to grant temporary permits for public installations on a curb lane in the designated public spaces as described in Appendix A - King Street Temporary Closures for Public Spaces of this report, from March 29, 2018 to December 31, 2018, inclusive, subject to the following requirements that will be finalized in the permit agreement between the applicant and the City:

a. the applicant shall submit a temporary permit application to the Right-Of-Way (ROW) Management Unit of Transportation Services in a form satisfactory to the General Manager of Transportation Services;

b. prior to receiving the permit, the applicant must enter into an agreement with the City containing terms and conditions deemed by the General Manager of Transportation Services to be relevant and in accordance with the report dated February 16, 2018 from the Director, Public Realm Section, Transportation Services, including any requirements set out in Chapter 743, Streets and Sidewalks, Use Of, deemed by the General Manager of Transportation Services to be applicable, and any other terms;

c. the applicant shall provide a detailed, scaled site plan(s) to the satisfaction of the General Manager of Transportation Services showing all relevant dimensions and design details of the public installation on a curb lane in its application to the City;

d. all public installations on a curb lane shall meet the specified design and installation requirements to the satisfaction of the General Manager of Transportation Services as outlined in the permit agreement with the City, including terms and conditions such as:

- i) have a secure, stable, and safe vertical barrier along the perimeter of the public installation on a curb lane of 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, unless determined otherwise by the General Manager;
- ii) include a wheel stop within the permit area at a distance of 1.2 metres from the end of the public installation on a curb lane, unless determined otherwise by the General Manager; and have secure, stable and safe planters in the permit area at each end of the public installation on a curb lane to help protect it from moving traffic and loading vehicles;
- iii) have retro-reflective marking tape at each end of the public installation on a curb lane and all its other materials must minimize glare for drivers and cyclists;
- iv) not have jersey barriers;
- v) have a surface that is stable, safe, and slip-resistant;
- vi) not block stormwater drainage and overland flow;
- vii) have all parts of any umbrellas on a public installation on a curb lane be set back at least 0.8 metres from its edges adjacent to the travel lanes and loading spaces;
- viii) be removed entirely at the end of the term of the permit and the highway restored;
- ix) have an unobstructed emergency access route between the travelled portion of the road and adjacent building entrances, in conformance with the Ontario Building Code and Fire Code;
- x) not have any enclosures, structures, or visual screens on or over the permit area;
- xi) meet any minimum separation distances to utilities or public infrastructure as determined by the General Manager of Transportation Services;
- xii) not place or permit the placement of any outdoor carpeting, artificial turf or other surface covering on any portion of the sidewalk or street unless otherwise reviewed and approved by the General Manager of Transportation Services;
- xiii) meet minimum pedestrian clearway requirements as determined by the General Manager of Transportation Services;
- xiv) have at least one accessible entrance to the permit area that is no less than 1 metre in width and an accessible ramp if applicable;
- xv) locate the public installation on a curb lane with a minimum 0.3 metres set back from the adjacent travel lane (as measured from the edge of the

public installation on a curb lane closest to the adjacent travel lane) or a greater dimension as determined by the General Manager of Transportation Services; and

xvi) meet the conditions for street work and installation (e.g., day of week and time of day and work zone coordination) as determined by the General Manager of Transportation Services to meet safety regulations and mitigate disruption to transit and other operations on King Street;

e. permit holder maintains at all times a policy of Commercial General Liability insurance in an amount and form satisfactory to the City of Toronto in accordance with Chapter 743, Streets and Sidewalks, Use Of;

f. no alcohol will be permitted to be consumed and/or served within a public installation on a curb lane;

g. permit holder shall immediately close and remove the public installation on a curb lane at the expense of the permit holder if the General Manager of Transportation Services provides notice to the permit holder to do so;

h. permit holder will not assign, transfer, or sub-let the permission for the use of all or any portion of the permit area to any other person; and

i. failure to comply with any of the conditions set out in the permit and/or the agreement may result in the revocation of the permit in accordance with the agreement.

5. The General Manager of Transportation Services is authorized to establish any policies and procedures necessary to implement the temporary permit and/or street work processes set out in this report and may, as appropriate, adopt and adapt any requirements from City of Toronto Chapter 743 for the purposes of issuing the public installation on a curb lane permit.

6. City Council waive the application fee as found as reference no. 36.1 under Toronto Municipal Code Chapter 441, Fees and Charges, Appendix C, Schedule 2, Transportation Services, for applicants for outdoor cafés on a curb lane and public installations on a curb lane for the duration of the King Street Transit Pilot.

7. City Council authorize the City Solicitor to introduce the necessary bills to give effect to Council's decision and authorize the City Solicitor to make any necessary clarifications, refinements, minor modifications, technical amendments, or by-law amendments as may be identified by the City Solicitor in order to give effect to the reasonable operation of the King Street Transit Pilot – Outdoor Cafés and Public Installations in the Curb Lane Public Spaces.

8. City Council authorize the Executive Director of Municipal Licensing and Standards, to enter into agreements, in a form satisfactory to the Executive Director, and to execute the agreements associated with the issuance of permits for outdoor cafés on a curb lane for the King Street Transit Pilot project.

9. City Council authorize the General Manager of Transportation Services, to enter into agreements, in a form satisfactory to the General Manager, and to execute the agreements associated with the issuance of permits for public installations on a curb lane for the King Street Transit Pilot Project.

FINANCIAL IMPACT

This report proposes waiving the application fee as found as reference no. 36.1 under Chapter 441, Fees and Charges, Appendix C, Schedule 2, Transportation Services, for applicants for outdoor cafés and public installations on a curb lane for the duration of the King Street Transit Pilot. This application fee is related to the right-of-way permit application fee and is being waived since the curb lane will be used to expand the public realm.

If this fee were to be charged for the nineteen (19) curb lane public spaces identified in this report, it would represent approximately \$10,700 in revenue for 2018 (based on the proposed 2018 Schedule 2 for a one-time application fee of \$552.52 per public space for an outdoor café or public installation on a curb lane, plus the non-recoverable portion of HST of 1.76%).

Outdoor café application fees and permit fees still apply as noted under Recommendation 2b and in the body of this report.

Other costs related to the outdoor cafés and public installations on a curb lane would be borne by the establishments or individuals seeking permission to construct and maintain these curb lane public spaces.

DECISION HISTORY

At its July 4, 5, 6 and 7, 2017 meeting, City Council authorized the implementation of the proposed King Street Transit Pilot between Bathurst Street and Jarvis Street. <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.EX26.1>

COMMENTS

Launched on November 12, 2017, the King Street Transit Pilot is about moving people more efficiently on transit, improving public space, and supporting business and economic prosperity along King Street.

As part of the Pilot, new public realm spaces are to be created within the curb lane for use by businesses and other applicants such as Business Improvement Areas to support the vibrancy of the area. Through the detailed design of the pilot, nineteen (19) locations were identified. Based on feedback from area stakeholders and localized operational issues, the specific locations and length of these spaces were subsequently adjusted and confirmed for use as outdoor cafés or public installations on a curb lane.

Supporting Local Businesses

In early December local businesses abutting these spaces were given "first right of refusal" to use these spaces for outdoor cafés or seating. Businesses were first asked to advise the City by January 5th and were then given an extension to advise the City of their plans by February 5th, 2018. Should more than one business wish to use a space, City staff will work with the applicants to determine a fair space allocation. Any remaining spaces not used by local businesses will be designed through a Design Build Competition.

To ensure that the new public spaces in the Pilot area are animated, the City launched the "Everyone is King" Design Build Competition on January 9th. Through this call for concept proposals, other organizations or individuals can help create attractive public spaces in the Pilot area for all to enjoy. The total number of spaces for the competition will be confirmed once local businesses have had the opportunity to develop their plans. Winning submissions will be selected by a panel of experts including City staff, representatives of the local BIAs and Dave Meslin, 2017 winner of the Streetscape Blog USA Tactical Urbanism Award. Adjustments to the size and location of the public spaces may be required during the year. Through these initiatives, the Pilot area has the potential to be animated for the duration of the King Street Transit Pilot.

Authority to Issue Permits

This report seeks City Council authorization for the Executive Director, Municipal Licensing and Standards, to grant temporary permits for outdoor cafés solely for the Pilot. In addition, the report seeks City Council authorization for the General Manager, Transportation Services, to grant temporary permits for public installations solely for the Pilot. To achieve the above and to animate the King Street Transit Pilot area, City Council approval is required to temporarily close to vehicular traffic the required sections of the curb lanes described in Appendix A for these purposes. Transportation Services will work in partnership with Municipal Licensing & Standards to review and process applications by businesses or other applicants.

Process

- An applicant interested in operating an **outdoor café** on a curb lane will need to apply to Municipal Licensing & Standards for an outdoor café permit. The permit process will include circulation of the application to relevant City Divisions including Transportation Services for review and approval of the safety, design and other relevant requirements as set out in this report.
- The outdoor café on a curb lane applicant must pay a one-time application fee of \$280.62 inclusive of HST and a pro-rated* permit fee per square metre according to the following area and rate codes that are inclusive of HST:
 - Area 1, Rate Code 1 for King Street between York and Victoria is \$92.41;
 - Area 2, Rate Code 2 for King Street between Spadina Avenue and York Street, and Victoria to Jarvis is \$46.19; and
 - Area 3, Rate Code 3 for King Street between Spadina Ave to Bathurst Street is \$23.12.

* Outdoor café permit fees are annual and will be pro-rated based on the time period that the outdoor café is installed on a curb lane in the King Street Transit Pilot area and based on the agreement between the applicant and the Executive Director, Municipal Licensing and Standards.

- The above fees are consistent with Toronto City Council's adoption of the King Street Transit Pilot which had the effect of delineating the curb lane as an extension of public space, and as such, any proposed café in this curb lane public space will be considered similar to a boulevard café.
- If an applicant wishes to install a **public installation** on a curb lane that is open for everyone to enjoy, the applicant will need to apply to Transportation Services for a temporary permit.

Permit Agreement

- **For an outdoor café applicant**, prior to being issued any permit, a business owner or other applicant must enter into an agreement with the Executive Director, Municipal Licensing and Standards, that is satisfactory to the Executive Director. The permit agreement will have the terms and conditions determined by the Executive Director, Municipal Licensing and Standards, including the requirements for outdoor cafés on a curb lane provided by Transportation Services such as those outlined in this report under Recommendation 2.
- **For a public installation applicant**, prior to being issued any permit, an applicant must enter into an agreement with the General Manager, Transportation Services, that is satisfactory to the General Manager. The permit agreement will have the terms and conditions determined by the General Manager of Transportation Services, including the requirements for these public installations on a curb lane outlined in this report under Recommendation 4.
- City staff leading the King Street Transit Pilot will provide guidance to applicants on the process. The temporary public spaces will be in place from March 29, 2018 to December 31, 2018 inclusive.

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ATTACHMENTS

Appendix A - King Street Temporary Closures for Public Spaces
Appendix B - King Street Transit Pilot - Map of Public Spaces

APPENDIX A - KING STREET TEMPORARY CLOSURES FOR PUBLIC SPACES

The following sections of curb lane have been identified for temporary closure to vehicular traffic from March 29, 2018 to December 31, 2018, inclusive, in order to create public spaces:

Curb Lane Public Space No.	Highway	Lane	Between
1	King Street West	Southerly Eastbound	A point 40.1 metres east of Bathurst Street and a point 24.1 metres further east
2	King Street West	Southerly Eastbound	A point 30.5 metres west of Portland Street and a point 25.7 metres further west
3	King Street West	Southerly Eastbound	A point 77.7 metres east of Portland Street and a point 40.3 metres further east
4	King Street West	Northerly Westbound	A point 93.6 metres east of Portland Street and a point 29.5 metres further east
5	King Street West	Southerly Eastbound	A point 141.6 metres east of Portland Street and a point 35.9 metres further east
6	King Street West	Southerly Eastbound	A point 200.2 metres east of Portland Street and a point 24.5 metres further east
7	King Street West	Northerly Westbound	A point 11.3 metres east of Brant Street and a point 90.0 metres further east
8	King Street West	Southerly Eastbound	A point 56.1 metres west of Spadina Ave and a point 26.8 metres further west
9	King Street West	Northerly Westbound	A point 15.1 metres west of Charlotte Street and a point 30.5 metres further west
10	King Street West	Southerly Eastbound	A point 67.3 metres east of Spadina Ave and a point 41.1 metres further east
11	King Street West	Northerly Westbound	A point 12.4 metres east of Charlotte Street and a point 40.5 metres further east
12	King Street West	Southerly Eastbound	A point 89.9 metres east of Blue Jays Way and a point 62.5 metres further east
13	King Street West	Southerly Eastbound	A point 88.5 metres east of John Street and a point 171.3 metres further east
14	King Street East	Southerly Eastbound	A point 50.2 metres east of Yonge Street and a point 18.6 metres further east

Curb Lane Public Space No.	Highway	Lane	Between
15	King Street East	Northerly Westbound	A point 10.8 metres west of Toronto Street and a point 41 metres further west
16	King Street East	Northerly Westbound	A point 38.1 metres east of Toronto Street and a point 37.2 metres further east
17	King Street East	Southerly Eastbound	A point 63.7 metres east of Church Street and a point 41.0 metres further east
18	King Street East	Northerly Westbound	A point 41.0 metres west of Jarvis Street and a point 100.6 metres further west
19	King Street East	Southerly Eastbound	A point 116.7 metres east of Church Street and a point 15.6 metres further east

APPENDIX B - KING STREET TRANSIT PILOT - MAP OF PUBLIC SPACES







