

## **Curb Lane CaféTO Program: Review of 2023 and Changes for 2024**

**Date:** November 21, 2023  
**To:** Executive Committee  
**From:** General Manager, Transportation Services  
General Manager, Economic Development and Culture  
**Wards:** All

### **SUMMARY**

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During the COVID-19 pandemic, the sidewalk and curbside dining components of the CaféTO program animated Toronto's commercial main streets and supported thousands of local restaurants, food suppliers and hospitality sector jobs.

CaféTO is the City's program that (i) permits use of public property for cafés on sidewalks, (ii) permits use of public property for cafés in the curbside lane of roadways, and (iii) allows, through zoning provisions, for dining on private property (no permit required).

After operating (at no cost to participants) in its first three years as a temporary initiative focused primarily on the needs of restaurants, City Council made the curbside dining stream of CaféTO permanent in February 2023. In doing so, Council approved changes and measures to achieve a balance of uses in curbside lanes; make curbside cafés accessible, safer, and more attractive; and operate the program on a partial cost-recovery basis in view of its mixed private and public benefits, by reintroducing application and permit fees.

As directed by Council and informed by engagement with program participants, this report shares the findings of an operational and governance review of the 2023 curbside lane CaféTO program and identifies several planned improvements for the 2024 outdoor dining season, including a streamlined application process for returning and new participants; expedited timelines to enable at least 90% of restaurants to open their curbside lane café by the May long-weekend; improved communications; and clarified accountability among the City Divisions delivering the program

This report also recommends updates to the City of Toronto Municipal Code Chapter 742, Sidewalk Cafés, Parklets and Marketing Displays, including providing the General Manager of Transportation Services discretion to approve different minimum setback requirements for curbside lane cafés from intersections and pedestrian crossings if safety is not compromised; allowing curbside lane cafés in commercial loading zones where the

local councillor has been notified of an application and has no objection; and consistent with the program goals, that curbside cafés are operational at least three times per week to ensure activation of the curbside given the significant demand on curbside space on our main streets.

Finally, based on an assessment of the feasibility of continuing year-round curbside café operations within the King Street Priority Transit Corridor and on Duncan Street, this report recommends these locations for outdoor dining be incorporated into the CaféTO program and permit curbside cafés in these areas to operate year-round generally as they have while incorporating some requirements set out in Chapter 742.

This report recommends implementing the three-year phase-in of fees for curbside café applications or permits as approved by Council. To achieve the improvements identified in this report, additional City staff and administrative resources will be assigned, effectively increasing the City's subsidy for participating restaurants and its share of total curbside CaféTO program costs.

In 2024, the curbside café stream of the CaféTO program is forecast to cost \$3.741 million, while revenue from fees is projected to be \$0.505 million, requiring an effective City subsidy of \$3.236 million. Even when the full application and permit fees approved by City Council in February 2023 are charged in 2025, CaféTO will continue to operate on a partial cost-recovery basis, meaning the City will provide participating businesses with a subsidy and will not recover all of its costs to operate the program.

## **RECOMMENDATIONS**

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The General Manager, Transportation Services and General Manager, Economic Development and Culture, recommend that:

1. City Council amend City of Toronto Municipal Code Chapter 742, Sidewalk Cafés, Parklets and Marketing Displays, generally as outlined in Attachment 1 to the report (November 21, 2023) from the General Manager, Transportation Services and General Manager, Economic Development and Culture.
2. City Council amend Section 937-3.13 of the City of Toronto Municipal Code Chapter 937, Temporary Closing of Highways, by deleting the phrase "153 consecutive days from May 15 of one year to October 15 of that same year as required for the purposes of permitting parklet cafés" and insert the phrase "167 consecutive days from May 1 of one year to October 15 of that same year as required for the purposes of permitting curbside cafés".
3. City Council authorize the City Solicitor to introduce the necessary Bills to give effect to City Council's decision and City Council 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 consultation with the General Manager, Transportation Services and General Manager, Economic Development and Culture in order to give effect to Recommendations 1 and 2 above.

4. City Council authorize the General Manager, Economic Development and Culture, to change the name of the cost-shared CaféTO Business Improvement Area grant to the CaféTO Dining District Grant Program, and approve the Guidelines for this program as set out in Attachment 3 to the report (November 21, 2023) from the General Manager Transportation Services and General Manager, Economic Development and Culture, with implementation commencing in 2024.
5. City Council authorize the General Manager, Economic Development and Culture to negotiate and execute on behalf of the City grant agreements related to the CaféTO Dining District Grant Program, in a form acceptable to the City Solicitor.
6. City Council authorize the General Manager, Economic Development and Culture to periodically review and, when necessary, revise the Guidelines for the CaféTO Dining District Grant Program to ensure alignment with the City of Toronto's Community Grants Policy and any other applicable City policy, as may be amended from time to time, or reflect changing food service industry and BIA needs and best practices.

## **FINANCIAL IMPACT**

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There is no financial impact from the adoption of the recommendations outlined in this staff report as the Transportation Services and Economic Development and Culture Divisions will continue to manage the CaféTO program within existing resources and Operating Budgets. Divisions will continue to monitor and review the program each year and request additional resources as required as part of the annual operating budget submission.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

## **DECISION HISTORY**

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City Council, at its meeting on June 14, 2023, adopted MM7.16 - Improving CaféTO, directing the City Manager to review the CaféTO program by the end of 2023 and report back to Executive Committee on various program elements.

<https://secure.toronto.ca/council/agenda-item.do?item=2023.MM7.16>

City Council, at its meeting on February 7, 2023, adopted criteria and measures to make the curb lane CaféTO program stream permanent and requested the General Manager, Transportation Services, the Executive Director, Municipal Licensing and Standards, and the General Manager, Economic Development and Culture to provide an end-of-season evaluation report to the December 5, 2023 meeting of the Executive Committee with recommendations.

<https://secure.toronto.ca/council/agenda-item.do?item=2023.EX2.4>

City Council, at its meeting of June 15 and 16, 2022, requested the General Manager, Transportation Services to develop design guidelines for CaféTO installations that will help create a beautiful streetscape that is safe and accessible.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.MM45.28>

City Council, at its meeting of November 9, 10 and 12, 2021, adopted measures to move the CaféTO program toward permanency, and request staff to report back by the first quarter of 2023 on criteria for a permanent program for curbside cafés.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.EX27.10>

City Council, at its meeting of February 2, 3 and 5, 2021, approved an enhanced CaféTO program for expanded outdoor dining in the public right-of-way until April 14, 2022.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.EX20.6>

City Council, at its meeting of June 29 and 30, 2020 authorized the establishment of the CaféTO program, which facilitated expanded outdoor dining space in the public right-of-way.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.EX14.1>

City Council, at its meeting of March 27 and 28, 2019 adopted a harmonized by-law for outdoor dining and marketing in the right-of-way, establishing Toronto Municipal Code Chapter 742, Sidewalk Cafés, Public Parklets and Marketing Displays.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.EC2.3>

City Council, at its meeting on July 19 and 20, 2023, adopted resolutions to approve the temporary closure to vehicular traffic of the westerly southbound curbside lane of Duncan Street for the operation of a parklet café, and to extend existing R58 curbside café permits on Duncan Street and within the King Street Transit Priority Corridor until December 31, 2023. In addition, City Council adopted a resolution directing staff to report back before the end of 2023 on the feasibility of continuing year-round curbside café operations within the King Street Transit Priority Corridor, including identifying any required permit conditions for curbside café permits issued in 2024 and beyond.

<https://secure.toronto.ca/council/agenda-item.do?item=2023.TE6.80>

City Council, at its meeting on November 26, 2019, adopted an extension of approval for Year-Round Operation of Parklets and Parklet Cafés on King Street and Duncan Street.

<https://secure.toronto.ca/council/agenda-item.do?item=2019.TE10.46>

Toronto East York Community Council, at its meeting on November 5, 2019, through delegated authority from City Council, adopted a resolution to extend approval for the parklet café on Duncan Street.

<https://secure.toronto.ca/council/agenda-item.do?item=2019.TE10.45>

City Council, at its meeting on July 4, 2017, adopted resolutions to action the creation of the proposed King Street Transit Pilot between Bathurst Street and Jarvis Street.

<https://secure.toronto.ca/council/agenda-item.do?item=2017.EX26.1>

## COMMENTS

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### Background

In 2020, in response to the COVID-19 pandemic and restrictions on indoor dining, Transportation Services (TS), Municipal Licensing and Standards (MLS), and Economic Development and Culture (EDC) established CaféTO by rapidly introducing a new temporary seasonal curb lane outdoor dining program and providing more flexibility for existing year-round outdoor dining options on public sidewalks and private property.

To provide additional financial relief to restaurant operators and support their ability to remain in business, no application or permit fees were charged to restaurants for participation in CaféTO program streams between 2020 - 2022.

Informed by engagement with BIAs and restaurant operators and survey data, and with regard for the easing of restrictions on indoor dining and increased demand for curb space, staff identified and recommended to Council in February 2023 that curb lane cafés be made permanent in a manner which provided for a balance of uses in the curbside area (e.g. cafés, cycling lanes, pedestrians, and safe and efficient pick-up and drop-off areas for people and goods).

Key changes between the temporary (2020 – 2022) and permanent curb lane CaféTO program approved by City Council in 2023 included:

*1. Accessible Platforms* - requiring operators to install platforms providing level access between the sidewalk and the café in order to increase the navigability of the curb lane, especially for cyclists; create safer and more accessible patios; and improve the dining experience for customers.

*2. Application and Permit Fees* - between 2020 – 2022 when no fees were charged to operators, many curb lane cafés went unused, became unsightly, and took valuable public space and uses (e.g. parking, loading zones, etc.) away from other businesses and users of the right-of-way. In 2023, fees were introduced to:

- ensure restaurant and bar owners co-invest with the City in their curb lane café installations;
- cover a reasonable portion of the City's costs to operate the program; and
- appropriately recognize that public space is being used for private commercial benefit.

*3. Allocation of Curb Lane Space* - allocation of curb lane space for permit areas based in the first instance on alignment with participating businesses' frontage to provide predictability to operators and their neighbours and reduce conflict between local businesses.

*4. A Two-year BIA Curb Lane Pilot Program* - to provide BIAs with the ability to work with their members to design and implement customized street plans and features (planters, parklets, etc.), including the option for participating restaurants to install curb lane cafés which extend beyond their frontage or to offset their permit area.

## 2023 Curb Lane CaféTO Program Participation Rates and Timelines

Based on the experience of other cities which had made their temporary curb lane café programs permanent, the February 2023 CaféTO report considered by Council estimated there would be four hundred (400) curb lane cafés during the 2023 café season. Ultimately, the City received 539 applications for curb lane cafés. Of these, 335 were approved, while 204 were either refused, had cancelled their application or did not fully complete their application, or were considered inactive and were removed from the program.

Restaurants wishing to participate in the program applied through an online portal. The process involved multiple steps, with unique and technical requirements at each stage. Staff conducted a detailed feasibility and safety review for each application, having regard for planned construction projects, special events, and the various Council-approved Municipal Code Chapter 742 balance-of-use requirements related to in-ground utilities, commercial loading zones, transit stops, etc.

A number of locations approved for a curb lane café prior to 2023 could no longer be supported due to failing to meet requirements tied to these safety and mobility concerns or balance-of-use requirements. However, on appeal, or because of motions adopted by Council, some of those locations were subsequently issued permits. Forty (40) of the sixty-nine (69) applications which were initially refused were appealed, resulting in the issuance of twenty-nine (29) additional curb lane café permits (i.e. an appeal success rate of 72.5%).

In 2023, timelines for the curb lane cafés application and review process were compressed due to several factors including the post-election Council schedule which delayed Council's consideration of permanent CaféTO program requirements until February. Despite efforts to proactively engage with operators and BIAs in the lead up to the Council decision, it was not possible to formally receive and process applications until Council had approved the permanent program at its meeting of February 7, 2023.

The timelines for the installation of traffic safety equipment required for safe curb lane closures was also compressed in 2023. In previous years, the installation of road safety equipment for curb lane cafés began at the end of April. But significant concerns were raised by the public and Council about the thoroughness of the City's spring road cleanup effort, which is performed by the same Transportation Services Operations and Maintenance crews which are used to install traffic safety equipment for CaféTO curb lane cafés. To give these crews sufficient time to complete spring road maintenance and cleaning activities, the installation of the traffic safety equipment needed for curb lane cafés did not begin until May 15, 2023. The installations started in the west part of the city and continued easterly, with adjustments made throughout the season.

Staff attempted to minimize the overall impact of these delays by:

- providing as much advance notice as possible to operators and BIAs about when the traffic safety equipment for their curb lane café areas would be installed;

- installing traffic safety equipment prior to the finalization of all permit requirements, to minimize delays between permit issuance and café setup by the restaurant operators; and
- extending the deadline for restaurant operators to submit platform plans and, subsequently, the deadline to install platforms until August 1.

During the 2023 café season, the traffic safety equipment for 111 curb lane cafés was removed early. Early removals occurred due to unexpected construction; when applicants decided to withdraw from the program altogether or close their curb lane café before mid-October; or if operators were deemed to be non-compliant (i.e., lack of platform, did not pay fees, did not abide to traffic plan and were unwilling to correct).

### **Curb Lane CaféTO Program Review Methodology**

The City is committed to continuous improvement and delivering the curb lane CaféTO program as effectively and efficiently as possible in 2024 and beyond. Efforts to collaborate with restaurant operators and BIAs are ongoing and numerous.

In view of the challenges and delays operators encountered in 2023 and as directed by Council, an operations and governance review was undertaken of the curb lane component of the CaféTO program, supported by the Service Design & Delivery team of the Customer Experience Division. This review focused on opportunities to improve customer experience, business processes, policy, communications, governance and resourcing.

The review followed a 'Human-Centred Design' approach to determine pain points and related improvements. Inputs into this review included eleven (11) one-hour interviews with BIAs and operators, six (6) in-depth staff interviews and three inter-divisional workshops, in addition to feedback gathered through the implementation of the 2023 program from participants and Councillors whose wards hosted CaféTO curb lane cafés. The review team used these interviews and workshops to generate insights and recommend changes to various elements of the program, including:

- application experience for new and returning program participants;
- technology;
- timelines;
- governance and resourcing;
- communications;
- application feasibility reviews and appeals; and
- design of the curb lane.

### **Improvements to CaféTO in 2024 and Beyond**

Informed by this program review, operations experience, and further engagement with participants several changes to the curb lane CaféTO program will be made in 2024, as detailed below and summarized in Attachment 2.

A second set of enhancements requiring a longer timeline to implement and/or validate are expected to be in place for the 2025 outdoor dining season.

### *Application & Renewal Experience*

All potentially new and returning program participants will benefit from improved communications, information and support before they begin the application process itself. This set of activities will help restaurant operators plan ahead, understand what to expect, and make informed decisions about whether to apply. Pre-application supports will include:

- information sessions and webinars to educate prospective applicants on program requirements;
- 1-on-1 consultations to identify early feasibility concerns; and
- on-site visits with operators and BIA representatives for complex curbside contexts.

For new restaurants joining the program in 2024, there will be an easier and faster approval process and the application window will open six weeks earlier than was the case for the 2023 season. The goal is to approve at least 90 per cent of eligible new applicants by mid-April 2024, provided their application demonstrates compliance with program requirements.

Restaurants which participated in the curbside CaféTO program in 2023 will benefit from a simplified, streamlined renewal process in 2024 and in future years. This is possible because the curbside space they used previously has already undergone a detailed safety review and complied with City requirements. Specifically, any restaurants that participated in 2023 who will be using the same installation plan for 2024 and in good standing with all requirements - will be fast-tracked through renewal approvals. Notably, 2023 program participants received communication from the City prior to November 30 explaining the renewal process and timelines for the 2024 season. Prior to issuing these notifications, staff assessed the City's planned summer 2024 construction projects to identify if any returning summer 2023 curbside CaféTO locations would be impacted. For returning restaurants that want, or need, to change their curbside patio plans for 2024, City staff will facilitate a quick review and approval process.

For 2025, planning is underway to implement a new user-friendly application tool that will enable additional improvements to the application process and experience.



### 2024 Curb Lane CaféTO Program Timelines

Activity	Date
Communication issued to 2023 program participants regarding status of their previously used curb lane patio space and advising on timelines and next steps. - Pre-approval provided when there is no construction conflict, operator is in good standing, and same space will be used for summer 2024 season	By November 30, 2023
Pre-application supports provided	November 2023 to January 2024
Application and renewal period opens	By mid-January, 2024
Application and renewal period closes	March 1, 2024
Platform designs due	Between March 25 and April 15, 2024
Installation of traffic safety equipment begins	May 1, 2024 (weather permitting)
Installation of traffic safety equipment at least 90% complete	By Victoria Day Weekend
Deadline for platform installation	June 1, 2024
Removal of curb lane patio elements	By October 15, 2024
Removal of traffic safety equipment	October 15 to October 20, 2024

The application and renewals window will open in mid-January, six weeks earlier than in 2023. This change will provide a longer period for application reviews and earlier identification and communication to program participants of the planned installation dates for the traffic safety equipment on their street. In turn, this process will give restaurant operators the time and information they need to plan and budget for the 2024 outdoor dining season, including hiring staff and purchasing materials and patio furniture.

#### *Installation Timelines*

The installation of traffic safety equipment required for safe curb lane café closures and operations will begin on May 1, weather permitting, with the goal of completing 90% of all installations by Victoria Day Weekend with the balance installed as soon as feasible

thereafter. The installation process itself in 2024 is expected to proceed more quickly than it did in 2023 because:

(a) a much smaller percentage of restaurants expected to participate next season will be entirely new to the program, meaning most traffic safety plans (which indicate exactly where on the street the safety equipment needs to be placed) will just need to be updated, not developed from scratch; and

(b) the traffic plans themselves are expected to be more accurate and precise, resulting in fewer post-installation changes.

In 2023, installation moved from west to east. For 2024, installation will start in the east and move west. In 2025, traffic safety equipment will first be deployed in the centre of the city and then fan out in both directions. In 2026, the three-year deployment cycle will start anew, with equipment again being set up from west to east.

Operators will not be required to install a temporary platform in their permitted curb lane café area until June 1. However, returning operators who were pre-approved and had a platform in 2023 will be encouraged to install their platforms sooner if they can, once the traffic safety equipment on their street is in place. Critically, the installation schedule will be provided to operators when their permit is issued, giving them more lead time to prepare.

#### *Application Feasibility Reviews & Appeals*

Enhanced pre-application support coupled with proposed changes to Chapter 742 recommended in this report are anticipated to streamline application feasibility reviews and result in fewer refusals and appeals. The enhanced communication with prospective applicants and BIAs will also aid greatly in this effort.

Moreover, the volume of detailed application feasibility reviews for altogether new curb lane café permits is expected to be substantially lower in 2024 and beyond than was the case in 2023, as returning applicants will be able to renew their permit using previously approved designs and plans. Temporary platform designs approved in 2023 can also be reused in future years.

As part of the review, all 2023 season application refusals, appeals and Council motions were assessed to identify common issues of concern. This analysis informs the recommendations offered in this report to amend Chapter 742 to provide the General Manager of Transportation Services with more discretion with respect to some setback minimums if safety is not compromised.

#### *Communications*

City staff are committed to improving communications with program participants and the overall experience for restaurants and patrons. It can be challenging to communicate with restaurant operators given their hours of operation and intensity of workload. During the 2023 CaféTO season, communication with certain program participants was not as clear as it could have been, partly because different City divisions held lead

operational responsibility for different program elements, especially in relation to the application intake, review, approval, appeal and payment process. Finally, as noted earlier, all program participants and City staff were operating on a compressed schedule and in a substantially new program context, given the updated requirements and elements of the permanent curb lane CaféTO program stream authorized by Council in February 2023.

To improve program communications and help restore trust and confidence with applicants, BIAs, and other stakeholders, the following information and engagement tools and approaches will be available in 2024:

- more City staff will be dedicated to supporting the program in 2024 and beyond, than was the case in previous years;
- operators and BIAs will be able to self-serve and self-educate through updated communications tools, including web updates, ongoing webinars, and improvements to the CaféTO Guidebook;
- an infographic illustrating key steps of the application process and key program timelines; and
- a single email address for program-related inquiries, which will be responded to within City customer service standard timelines

For the 2025 CaféTO season an enhanced application tool will be developed which, among other features, can provide applicants with automated updates on the status of their application at each stage.

### *Governance and Resourcing*

In its first few years, CaféTO was co-led by Transportation Services, Municipal Licencing and Standards (MLS), and Economic Development and Culture (EDC). While this co-lead model was necessary in the context of the COVID-19 pandemic response in order to draw on available staffing, operational, and programmatic expertise and resources, it clouded accountability for certain program components during the 2023 season.

To address this dynamic, the following governance and administrative changes to the curb lane CaféTO program will be made for 2024:

- Transportation Services is the lead City division with primary accountability for the curb lane CaféTO program;
- Responsibility for the administration of curb lane café permits will move from Municipal Licencing and Standards to Transportation Services;
- Economic Development and Culture will continue to lead the BIA Curb Lane Pilot Program; facilitate information-sharing and engagement with the business community; provide operational and policy support; and administer cost-shared CaféTO grants for operators and BIAs; and
- The Office of the Deputy City Manager for Infrastructure Services will provide executive oversight of and support for the curb lane CaféTO program.

Another key finding of the review is that adequate year-long resources are in fact required to support the delivery of a seasonal on-street café program in view of the extended timelines required for businesses to plan, coordination with BIAs to occur, and City staff to perform due diligence in reviewing new applications and creating and updating traffic safety plans for scores of streets, each with their own unique streetscape elements and conditions.

Recognizing that limited staff resources made it difficult to meet the demands of the CaféTO program in 2023, additional resources will be made available in 2024, especially during peak periods of application intake and review. Specifically, Transportation Services will employ a 'surge' resourcing model that will internally reallocate certain staff members to support the program during peak periods. This will include additional technical staff responsible for reviewing applications for curbside space, reviewing platform designs, and conducting field inspections to confirm program requirements. In addition, more Transportation Standards Officers (TSOs) will be assigned to support the program in specific café catchment areas, where they will be responsible for ensuring that each café complies with City approved plans and program guidelines, including safety and café space use requirements, as well as additional staff resources in Economic Development and Culture to assist businesses and BIAs in participating in the program.

### *Design of the Curb Lane*

The equipment used for curbside closures needs to be installed in accordance with proper traffic operation principles and be designed to be safe for road users and patrons. At the height of the COVID-19 pandemic, the traffic safety equipment used to delineate curbside café closure areas included concrete blocks, "candlestick-style" pylons and connectors, construction barrels, lane closure signage, and planter boxes. This equipment met normal lane closure safety requirements and was cost-effective and available.

While making platforms mandatory improves the "look and feel" of on-street cafés, many restaurant operators and members of the public want to see enhancements to the appearance of the traffic safety equipment itself that is used for curbside closures. The use of sometimes unadorned or cracked concrete jersey barriers, for example, detracts from the customer dining experience.

To increase the aesthetic appeal of curbside cafés while abiding by safety standards, Transportation Services is currently assessing whether it will be possible to paint or wrap the concrete jersey barriers and concrete blocks that will be used in 2024.

### **BIA Pilot Program**

In February 2023, City Council approved a two-year CaféTO Curbside Lane Pilot Program to enable Business Improvement Areas (BIAs) to propose custom designs of their curbside lane closures in a manner which balances the local needs of their neighbourhoods and the BIA's membership. The hyperlocal knowledge of BIAs positions them to work well with the City and business operators to provide tailored curbside lane solutions for cafés on main streets.

Twenty-five (25) BIAs participated in the pilot program during the 2023 outdoor dining season, allowing restaurant operators (who otherwise would have only had access to the curb lane space aligned to their frontage) to extend patio lengths beyond their frontage, and localized solutions creating space for loading and waste collection. Through the pilot program in 2023, 248 operators - or 72% of all participants -- were able to customize their café space in the curb lane for optimal usage.

Through ongoing consultation and an end-of-season BIA survey, opportunities to strengthen the pilot have been identified. For example, building on a best practice from the 2023 season, in 2024 installation of traffic safety equipment in pilot areas will often involve the coordinated on-site presence of BIA representatives and staff from Transportation Services and Economic Development and Culture (EDC) to enable adjustments to be made in real time.

A substantial majority - 71% (17 of 25) of the BIAs which participated in the pilot in 2023 anticipate using the same designs for the 2024 season. The remainder intend to adjust their plans to reflect the changing needs of their membership and local area. EDC is also working with four (4) new BIAs which plan to join the pilot program in 2024.

### **Fees & Additional Financial Assistance**

In its first three years, the City has significantly subsidized restaurants ability to participate in the program, recognizing the significant impacts of the pandemic on their operations. Over this time, the City provided more than \$20 million in direct and in-kind funding, including waived fees, to operate the sidewalk and curb lane CaféTO program streams. In 2023, Council approved a partial cost-recovery fee structure, with a three-year phase-in schedule, for application and permit fees, as shown in the table below. This approach helps businesses adjust to the new fees while they are recovering from the impacts of the pandemic while also ensuring that participating restaurants have enough equity in the program to ensure full participation.

<b>CaféTO Fees</b>			
<b>Year</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
Curb Lane Café (per m <sup>2</sup> )	\$43.70	\$87.40	\$132.42
Application Fee **	\$285	\$570.90	\$865

\*\* - one time fee for new applicants participating in the CaféTO program

In 2023, curb lane CaféTO program costs amounted to \$4.327 million. The revenue from fees was approximately \$0.375 million in an effective City subsidy for the program of approximately \$3.952 million. In view of this high subsidization rate this report does not recommend any refund of fees paid.

In 2024, it is projected that the program will cost \$3.741 million and generate fee revenue of \$0.505 million requiring a subsidization of \$3.236 million. In view of this continued high subsidization rate, the City's financial pressures, and the fact that additional staff resources (beyond those which were contemplated when the fee structure was set) will be deployed to support the program next year, no changes to the 2024 program fee structure are recommended.

Even when full fees are charged in 2025, CaféTO will operate on a partial cost-recovery basis, meaning the City will provide participating businesses with a subsidy and will not recover all of its costs. Additionally, as noted in this report, City divisions will engage with interested parties and monitor program operations and data in order to make further program improvements that create further value for participants and the public at large, such as enhanced application assistance and the beautification of jersey barriers.

Below is a summary of the various curb lane CaféTO program costs and revenues for 2023 and anticipated for 2024.

**CaféTO 2023 – Curb Lane Café Revenues**

<b>Item</b>	<b>Revenue</b>
Application Fees	\$119,593
Transfer Fees	\$0
Seasonal Permit Fees	\$255,189
<b>Total</b>	<b>\$374,782</b>

**CaféTO 2023– Curb Lane Café Costs**

<b>Division</b>	<b>Item</b>	<b>Expense</b>
Economic Development and Culture	Salary and Benefits	\$277,771
	CaféTO BIA Grant Program	\$110,000
Municipal Licensing and Standards	Salary and Benefits	\$659,560
Transportation Services	Salary and Benefits	\$2,444,930
	Contracted Services	\$640,874
	Operational Materials	\$193,828
<b>Total</b>		<b>\$4,326,963</b>

**CaféTO 2024 – Curb Lane Café Revenues**

<b>Item</b>	<b>Revenue</b>
Application Fees	\$11,418
Transfer Fees	\$6,763
Seasonal Permit Fees	\$415,638
Year-round Permit Fees **	\$70,857
<b>Total</b>	<b>\$504,676</b>

\*\* - King Street and Duncan Street

## CaféTO 2024 - Curb Lane Café Costs

Division	Item	Expense
Economic Development and Culture	Salary and Benefits	\$317,183
	Dining District Grant Program	\$150,000
Transportation Services	Salary and Benefits	\$2,862,699
	Contracted Services	\$211,500
	Operational Materials	\$200,000
<b>Total</b>		<b>\$ 3,741,382</b>

In 2024, the City will continue to offer the [CaféTO Property Improvement Program](#) to restaurant and bar operators to support costs for their outdoor patio spaces. This program matches 50 per cent of the cost of eligible patio space improvements, including costs associated with renting, leasing, or purchasing accessible temporary platforms, up to a maximum of \$7,500. For the 2023 patio season, a total of \$560,000 was committed to 156 operators. This program is fully funded by the Government of Canada through the Federal Economic Development Agency for Southern Ontario (FedDev Ontario) and is part of the [Toronto Main Street Recovery and Rebuild Initiative \(MRRI\)](#) of Economic Development and Culture.

In 2023, the City provided approximately \$110,000 through the BIA CaféTO grant program to fund 50% of BIA's eligible costs (up to a maximum of \$5,000) for plants, soil, materials, watering services, planter maintenance, furniture, platforms and public parklet elements.

To better address the future needs of BIAs, and potentially other non-profit organizations working with food service-based businesses, to create CaféTO dining areas, this report recommends that:

- The name of the CaféTO BIA Grant Program be changed to the CaféTO Dining District Grant Program.
- Guidelines for this program (as detailed in Attachment 3 of this report) be approved by Council.
- The General Manager, Economic Development and Culture be authorized to periodically review and, when necessary, revise these Guidelines to ensure alignment with the City of Toronto's Community Grants Policy and any other applicable City policy, as may be amended from time to time, or reflect changing food service industry and BIA needs and best practices.

## King Street and Duncan Street Pilot

This report recommends that the existing curb lane cafés on King Street and Duncan Street continue to operate year-round if so desired by the operators. Winter patios are an economic development opportunity. They help to create more active and attractive streets during the coldest months and encourage residents and tourists to rethink Toronto as a destination for unique outdoor experiences year-round.

While the cafés on Duncan Street and King Street will generally be permitted to continue operating in accordance with their existing permissions, the permit holders will

have to comply with certain portions of Chapter 742 beginning on January 1, 2024. Among the applicable requirements, new permit application submissions, including temporary accessible platform plans, will be required to obtain a revised curb lane permit for these locations in 2024. The permit fee to operate a year-round café on King Street and Duncan Street will be double the standard permit fee for other curb lane cafés (which is only for a six (6) month period). Additionally, it is recommended that the setback requirements as prescribed in Chapter 742 be waived, except for the setback requirement for platforms from the adjacent travel lane to accommodate the cycling offset.

Additional background information on the King Street and Duncan Street Pilot can be found in Attachment 4 to this report.

## **Proposed Modifications to Chapter 742**

The main permissions, rules, fees and requirements for the sidewalk and curb lane CaféTO program streams are set out in Chapter 742 of the Municipal Code. New and updated measures in Chapter 742 were introduced in 2023 in order to make curb lane cafés permanent.

With the benefit of a full season of outdoor dining and informed by the feedback received from operators and the analysis undertaken as part of the program review, many opportunities to improve the program - from a customer experience and operational perspective -- have been identified. To put these enhancements in place, various amendments to Chapter 742 are proposed below, with detailed amendments in Attachment 1:

- *Use of Curb Lane Space:*  
In 2023, several café spaces took a long time to begin operating, were not used at all or used only infrequently after the safety equipment was put in place. This lack of activity resulted in complaints from abutting businesses or questions from the public as to why permits for these patios were approved in the first place. To address this concern, it is recommended that curb lane cafés must be opened within 30 days of traffic safety equipment being deployed and operate at least three (3) times a week.
- *Café Operating Period:*  
Currently, curb lane café permit holders are expected to remove all furnishings, platforms, and other elements from the road in the off-season, which runs from October 15 of one year to May 14 of the next year. Since traffic safety equipment in 2024 will start to be installed on May 1 instead of in mid-May, the off-season dates need to be updated accordingly, such that all elements and furnishings must be removed by operators between October 15 of one year and May 1 of the following year. Elements and furnishings must also be removed during any period when the City has not installed traffic safety equipment around the permit area.



- Minimum Setback Requirements:*

In 2023, many curb lane café permit applications were denied because the location failed to meet prescribed setback requirements (i.e. from traffic signals, intersections, etc.). While some of the setback differences were minimal, staff did not have the flexibility to approve a permit in these cases, which led to applicants submitting appeals and motions being brought to Council to request waiving certain setback requirements. It is therefore recommended that the General Manager, Transportation Services be given the authority to approve different setback minimums, if in the view of the General Manager, or their delegate, safety is not compromised. In assessing safety, the General Manager can consider contextual factors such as street context, number and width of travel lanes and traffic volumes and speeds. In addition, the local Ward Councillor will be notified of the issued permit and approved setback.
- Commercial Loading Zones:*

Currently under Chapter 742 a curb lane café is not allowed in commercial loading zones. Applications for curb lane café permits in these areas in 2023 were denied. Many such applicants subsequently appealed to their local councillor to bring forward a motion to waive this restriction. This process is not a good use of anyone's time. Therefore, it is recommended that curb lane cafés be allowed to operate in a commercial loading zone where the local councillor has been notified of an application and has no objection to the placement of a curb lane café in the commercial loading zone.
- Platform Installation:*

In 2023, operators were required to put platforms in place no later than August 1. Given that approvals and installations will occur sooner in 2024 and beyond, it is recommended that platforms be installed by no later than June 1 each year. Businesses will be able to operate their cafés without an installed platform prior to June 1 if temporary ramps are used and traffic safety equipment is in place.
- Deadline for Platform Plans:*

Operators must submit for approval a platform plan designed, signed and stamped by a professionally licensed designer (i.e. Professional Engineer or Registered Architect) by no later than April 15 of each year. This will ensure that staff have time to review and advise applicants on any necessary adjustments to the plan.

## **CONTACT**

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## **SIGNATURE**

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Barbara Gray  
General Manager, Transportation Services

Patrick Tobin  
General Manager, Economic Development and Culture

## **ATTACHMENTS**

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Attachment 1: Amendments to Municipal Code Chapter 742, Sidewalk Cafés, Parklets and Marketing Displays

Attachment 2: Key Curb Lane CaféTO Program Changes / Improvements for 2024

Attachment 3: Guidelines - CaféTO Dining District Grant Program

Attachment 4: King Street and Duncan Street Pilot - Background

## **Attachment 1: Amendments to Municipal Code Chapter 742, Sidewalk Cafés, Parklets and Marketing Displays**

1. Insert a new Section 742-3.1B as follows:

B. Where a permit has been issued and the General Manager has approved one or more different minimum setbacks pursuant to § 742-10.4 A (3) as part of the issued permit, the General Manager shall notify the local Ward Councillor of the issued permit and approved setback.

2. Insert a new Section 742-9.1 C to require curb lane café permit holders to ensure their permit area is:

a. Open and in use by the permit holder within 30 days of the City installing traffic safety equipment around the permit area; and

b. Open and in use by the permit holder at least three times per week from May 2 to October 14, inclusive, each year unless otherwise restricted by this Chapter.

3. Amend Section 742-9.5 C to require curb lane café and parklet permit holders to remove all elements related to their permit from October 15 of one year to May 1 of the next year and/or any period where the City has not installed traffic safety equipment around the permit area.

4. Amend Section 742.10.2 A (h) to read as follows:

"commercial loading zones where the local Councillor has been notified of the application and objected within 30 days of receiving the notice;"

5. Amend Section 742.10.4 A to allow the General Manager, Transportation Services, authority to approve different intersection or pedestrian crossover set back minimums if safety is not compromised by deleting subsection (3), (4), (5) and (6) and replacing them with a new subsection (3) as follows:

"(3) in accordance with the following setbacks, unless the General Manager has approved different minimum setbacks based on a review of factors such as street context, number and width of travel lanes, traffic volumes and speeds, and other safety-related considerations:

i. no less than 30.5 metres upstream of the closest curb edge of a signalized intersection;

ii. 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;

- iii. 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 café or parklet may be located in a parking space adjacent to the curb extension;
  - iv. no less than 9 metres downstream of a pedestrian crossover;"
6. Amend Section 742.10.4 B (6) and (7) to require platforms be installed by no later than June 1, so the sections read as follows:

"(6) have platform surfaces installed by no later of June 1 of each year that are level with the sidewalk with a cross slope (from curb to outer café or 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 installed by no later than June 1 of each year that is:"

7. Insert a new Section 742.10.4 B (15) to require that during any period where a platform is not installed in a curb lane café permit area before June 1, permit holders must comply with certain alternative requirements, with the section to read as follows:

"(15) at any time prior to June 1 where a platform complying with subsections B (6) and (7) has not been installed, have temporary ramps installed in the permit area which provides for safe access to the permit area and meets the following requirements:

- i. must be a minimum of 1.0 metre wide;
- ii. must have contrasting colours with the roadway and sidewalk;
- iii. must have a slip-resistant surface and be visible at night;
- iv. must be stable so that it does not shift or move when used;
- v. must be positioned to allow for adequate space at the bottom of the ramp for someone using a mobility device to turn and navigate into the café area;
- iv. must not be affixed to the sidewalk, curb edge or street with screws, bolts or any other materials."

8. Insert a new Section 742.10.4 B (16) to require curb lane café permit holders to use their permit areas only once the City has installed safety equipment and closed the lane, with the section to read as follows:

"(16) are not used or occupied until the City has installed traffic safety equipment around the permit area."

9. Delete Section 742.10.4 C

10. Amend Section 742-15.1 to transition current curb lane cafés on King Street and Duncan Street into chapter 742, with new section B to read as follows:

" B. Existing R58 curb lane café permit holders with permit areas on Duncan Street between a point 4.2 metres south of Richmond Street West and a point 27.1 metres further south or King Street East and West between Bathurst Street and Jarvis Street can continue to operate under the terms and conditions of their approved permit and agreement with the City as of April 14, 2023 , provided the existing R58 permit holders comply with the following as of January 1, 2024:

(1) The following portions of this Chapter: permits (§ 742-2.1); permit applications (§ 742-2.2, provided the plans show compliance with the existing terms and conditions of the approved permit and agreement); permit renewal (§ 742-5.1C); permit requirements (§ 742-5.2); permit transfer (§ 742-6.1); usage of permit area (§ 742-9.1); seasonal operation (§ 742-9.5A except for § 742-9.5A(1) and (2)); set back requirements (§ 742-10.4A(8)(a) and (b)); 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); Permit Cancellation, Suspension (Article 13); Offences, Entry to Inspect, Orders (Article 14); and all fee requirements.

(2) Where the permit holder operates outside of the time periods in § 742-9.5C, the permit holder will pay double the permit fee applicable from time to time in the calendar year where such operation occurs."

## Attachment 2: Key Curb Lane CaféTO Program Changes / Improvements for 2024

Pre-application support for new and returning operators (Nov. 2023 through Jan. 2024):

- Information sessions and webinars provided to educate (prospective) applicants about program requirements.
- 1-on-1 consultations to identify early feasibility concerns.
- On-site visits with operators and BIA representatives for complex curb lane contexts.

Pre-approval for most returning operators:

- By Nov. 30, 2023, operators who had a curb lane café in 2023 will be informed of the renewal process and timelines for the 2024 season.
- Returning operators are pre-approved when the same space will be used in 2024, there is no construction conflict, and the operator is in good standing.

An easier, faster application and approval process for new operators:

- Application period will open in January 2024 - six weeks earlier than in 2023.
- Goal = approve 90 % of eligible new applicants by mid-April 2024, provided the application is complete / meets requirements.

An earlier, longer CaféTO season for everyone:

- Traffic safety equipment will start being installed on May 1, 2024, weather permitting (compared to May 15 in 2023).
- Goal = 90 % of permitted curb lane cafés able to open by Victoria Day weekend.
- Operators are not required to install their temporary platform until June 1 and can open their café with a temporary ramp beforehand.
- Operators to be provided more advance notice of when the traffic safety equipment for their patio / area will be installed so they can plan ahead -- installation schedule to be provided at time of permit issuance.
- Installation of traffic safety equipment in BIA pilot areas will (often) involve the coordinated on-site presence of BIA representatives and City staff to enable adjustments to be made in real time, minimizing delayed café openings.
- Cafés must be opened within 30 days of traffic safety equipment being deployed and operate at least three (3) times a week.

Fewer permit application refusals and appeals:

- When safety not compromised, the General Manager Transportation Services will be able to approve different minimum setback requirements, reducing curb lane café permit application refusals and appeals.
- Cafés will be allowed to operate in a commercial loading zone where the local councillor has been notified of an application and has no objection.

More attractive curb lane café enclosure areas and safety equipment:

- Potential to paint or wrap the concrete jersey barriers and concrete blocks.

Better communication:

- Operators and BIAs will have access to web updates, webinars, an improved CaféTO Guidebook and infographic.
- Single email address for inquiries, responded to within City customer service standard timelines.

Updated program governance and surge staffing:

- Office of the Deputy City Manager for Infrastructure Services to provide executive oversight of and support for the program.
- Transportation Services is the City division accountable for the program.
- Responsibility for permitting moves from Municipal Licensing and Standards to Transportation Services.
- "Surge" staffing at peak periods will be used for reviewing permit applications and platform designs, and for conducting field inspections.

## **Attachment 3: Guidelines - CaféTO Dining District Grant Program**

### **Program Goals**

1. Support BIAs or other non-profit organizations with various outdoor dining district CaféTO related public realm activations, planning and improvements, including:
  - (a) installation of temporary platforms and parklet furniture for public parklets in the right-of-way; and
  - (b) installation and maintenance of planter materials, including plants, soil, other materials, watering services, and equipment.
2. Support BIAs or other non-profit organizations with the customization of design plans for individual curb lane café alignments and closures.
3. Other outdoor dining CaféTO-related supports as determined by the Manager, Main Streets Initiatives, Business Growth Services, Economic Development and Culture.

### **Use of Grant Funds**

1. Funding must be used only for the purposes of the Program Goals of the CaféTO Dining District Grant Program, as set out above.
2. The recipient (“Recipient”) must notify the Manager, Main Streets Initiatives, of any proposed material changes (from what was indicated in the application) to any project(s) approved for CaféTO Dining District Grant Program funding.
  - (a) Funding can be used for such changes only with the prior written consent of the Manager, Main Street Initiatives.

### **Eligibility - BIAs**

To be eligible for funding under the CaféTO Dining District Grant Program, a BIA must:

1. Have in place a Board of Management approved by the current Council.
2. Have an operating budget, adopted at a general meeting of the BIA and approved by Council, for the year the project is to be implemented.
3. Be in good standing with the City Auditor and Finance and Treasury Services division with respect to the preparation and audit of the BIA annual financial statements.

### **Eligibility – Others**

To be eligible for funding under the CaféTO Dining District Grant Program, non-profit organizations (which are not BIAs) must meet the following criteria:

1. Demonstrate strong local business involvement and willingness to work with local businesses, including business associations, not-for-profit organizations, registered charities, and social enterprises.



- a. Non-BIA applicants are encouraged to discuss their eligibility with the Program Manager;
2. Have a Board of Management or Board of Directors in place;
3. Be in good standing with the City of Toronto with any previously approved grant(s).

Individual businesses, partnerships or for-profit corporations are not eligible under this program.

### **Eligibility Application Package**

Applications for the CaféTO Dining District Grant Program must include the following completed documents:

1. Application form provided by the Manager, Main Streets Initiatives;
2. Project proposal including an itemized budget;
3. Letter(s) of support from any additional funder(s) (if applicable).

### **Application Review**

Applications for the CaféTO Dining District Grant Program will be reviewed by the Program Manager and approved by the Manager, Main Streets Initiatives in the Economic Development and Culture (EDC) division. Following an initial review, the City may take further steps to assess the applications, such as:

1. Involve individuals with appropriate expertise in the review process, which may include a peer/citizen review mechanism;
2. Share applications under the CaféTO Dining District Grant Program with other funding providers to obtain feedback and evaluate potential partnership opportunities.

The Manager, Main Streets Initiatives at their sole discretion may approve funding for any project in whole or in part.

Applications for the CaféTO Dining District Grant Program will be evaluated by the Manager, Main Streets Initiatives based on the following criteria:

1. The application adequately meets and contributes to the goals of the CaféTO Dining District Grant Program;
2. The scope of work is clear, can be completed by the estimated project completion date, and falls within the resources and capacity of the applicant;
3. The application clearly responds to unmet needs within the local community and provides a straightforward approach to addressing these issues;

### **Project Requirements**

For projects that will use any type of consulting service:

1. The Recipient organization must adopt or maintain policies pertaining to the purchase of goods and services.
2. Consulting services funded through the Grant Program must be secured through a Request for Proposals (RFP) process in accordance with the purchasing policies;
3. The Recipient will be responsible for project management including monitoring the progress of work and progress payments upon completion of project milestones;
4. The Recipient must enter into a contract with the chosen consultant with a project plan and timeline which describes project milestones and the payable amounts attached to the completion of each project milestone;
5. The contract shall grant the Recipient ownership of any designs, reports, research, deliverables, images, and all other content developed as part of the project

For projects that use consultant services, the following additional requirements are made of the Recipient's Board of Management:

1. Approve the Request for Proposals for the consulting services;
2. Approve the selection of the chosen consultant;
3. Enter into a consulting contract with the chosen consultant.

### **Cost-Share Ratio**

Funding provided under this program can represent no more than 50% of total approved project costs.

### **Approval and Letter of Understanding**

If funding is approved, the Recipient will be advised in writing as to the amount.

### **Payment**

For CaféTO Dining District Grant Program projects the funding will be disbursed in one installment upon completion of the project to the satisfaction of the Manager, Main Street Initiatives, and receipt of the following:

1. Copies of all invoices, receipts, and paid expenses for the project.
2. Itemized summary of expenses in the template to be provided by the Manager, Main Streets Initiatives.

### **Further Conditions**

The City shall be entitled, at any time, to impose such additional terms and conditions on the use of the funding which, in its sole discretion, it deems appropriate.

## **Attachment 4: King Street and Duncan Street Pilot**

### **Background**

In 2019, City Council adopted the extension of the approval for year-round operation of parklets and parklet cafés on King Street and Duncan Street until April 14, 2023. A further extension to December 31, 2023 was approved by City Council on July 19 and 20, 2023.

These cafés were issued permits under specific Council approvals prior to CaféTO and continued to operate from 2020 to 2023 within the approvals from Council. These requirements pre-date the coming into force of Chapter 742, Sidewalk Cafés, Parklets and Marketing Displays in 2019 and the guidelines established through the temporary CaféTO program in 2020. Currently, some curb lane cafés do not meet certain traffic safety and placement requirements in Chapter 742, including intersection setbacks and the required cycling offset from the adjacent live lane of traffic.

The current permits for parklets and parklet cafés on Duncan Street and King Street will expire on December 31, 2023. These parklets and curb lane cafés have been monitored for any adverse impacts on the vehicular right-of-way and pedestrian clearway. From observation, all indications are that the year-round installation of these parklets and curb lane cafés has not significantly impacted vehicular traffic. In addition, snow clearing has not been impacted and snow storage, where necessary, can be accommodated in side layouts.