

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

1. Amend the definition for “Flankage Café” in section 742-1.1 by deleting the phrase “and is located on a local road that is adjacent to a corner business unit.” and replacing it with the phrase “and is located adjacent to a corner business unit on either a local road or collector road.”.

2. Amend section 742-2.1. A. (3) to remove “in the case of public parklets” as it pertains to entering into a written agreement, so that it now reads:

“(3) entered into a written agreement with the City in a form satisfactory to the Executive Director or the General Manager.”

3. Amend section 742-2.2. A. (3) and (5) to remove “in the case of public parklets” when the submission of detailed, scaled plans, specifications and other information deemed necessary to the satisfaction of the General Manager when approving a permit application, so that it now reads:

“(3) detailed, scaled plans and specifications to the satisfaction of the Executive Director or the General Manager as may be required to determine if the proposed sidewalk café, public parklet, or marketing display complies with the requirements set out in this Chapter, including but not limited to:”

and

“(5) any other information deemed necessary by the Executive Director or General Manager.”

4. Amend section 742-2.3 as follow:

- a. Replace the title ‘Notice, permit areas on local roads’ with ‘Notice, permit areas on local roads or collector roads’.
- b. Amend section 742-2.3 A (5) by replacing ‘60-metre radius’ with ‘30-metre radius’.

5. Amend section 742-3.1. A. and A. (2) to remove “in the case of public parklets” and “in the case of an application for a public parklet” to permit the General Manager to generally issue permits and approve legal agreements, so that it now reads:

“A. The Executive Director or General Manager may issue a permit when all of the following conditions are met:”

and

“(2) an applicant has entered into a written agreement with the City that is satisfactory to the Executive Director or General Manager;”

6. Amend 742-3.2.A. to remove “in the case of public parklets” to permit the General Manager to refuse an application for a sidewalk café, public parklet and/or marketing display, so that it now reads:

“The Executive Director or General Manager shall refuse an application for a sidewalk café, public parklet, and/or marketing display if:”

7. Amend 742-3.2.A. (3) to add the General Manager as an authority to determine necessary utility companies in addition to the Executive Director for the circulation and opportunity to object to a permit application, so that it now reads:

“the City receives an objection from Transportation Services, Toronto Transit Commission, Toronto Fire Services, Parks, Forestry and Recreation, City Planning, Enbridge, Toronto Hydro, Metrolinx, or any other utility company deemed necessary by the Executive Director or General Manager;”

8. Amend 742-4.2 D. to permit either the General Manager or Executive Director to notify an applicant of the results of an appeal and issue permits, so that it now reads:

“D. The General Manager or Executive Director shall:”

9. Delete section 742-4.2 E. to remove the appeal process for public parklets as it is now redundant as it is covered in section 742-4.2 D.

10. Amend section 742-4.3.A. and 742-4.3.C. to permit the General Manager to prepare reports on application appeals in addition to the Executive Director, so that it now reads:

“A. The General Manager or Executive Director shall prepare and forward a report to the appropriate Community Council upon receipt of an appeal on grounds other than those subject to the appeal contained in § 742-4.2, and the report include the:”

And

“C. Following receipt of the General Manager’s or Executive Director’s report, Community Council will provide the applicant and any other person with the opportunity to be heard and may either:”

11. Amend 742-5.2.A. (5) to delete the reference to Executive Director as the sole issuer of permits, so that it now reads:

“display a permit issued under this Chapter on the street door or in the lower front window of the associated establishment in a way that is visible at all times from the public sidewalk unless they hold a permit for a public parklet permit.”

12. Amend section 742-5.2.B (1) and 742-5.2.B (8) to remove “in the case of public parklets”, so that it now reads:

“(1) place or permit the placement of lighting, heating, barbeques, platforms, visual screens, ramps, canopies, awning or any other elements in the permit area, without first obtaining permission to do so from the Executive Director or the General Manager;”

And

“(8) use the permit area for any purpose other than for the use permitted by the Executive Director or General Manager; or”

13. Amend sections 742-6.1.A. (1) D. and D. (6) to add the General Manager as an authority to approve permit transfers forms and agreements, so that they now read:

“A. (1) the potential new permit holder has completed an application in the form prescribed by the Executive Director or General Manager; and”

and

“D. The Executive Director or General Manager may approve an application to transfer a permit for a sidewalk café, or marketing display if:”

and

“D. (6) the applicant has entered into a written agreement with the City that is satisfactory to the Executive Director or General Manager.”

14. Amend section 742-9.1. C. (2) to update the timeframe that curb lane cafe and public parklet are required to be open and in use from May 2 and October 14 to May 1 to October 15 so that it now reads:

“(2) Open and in use by the permit holder at least three times per week from May 1 to October 15, inclusive, each year unless otherwise restricted by this Chapter.”

15. Delete section 742-9.4. F. and replace it as follows to allow an extended permit area in a BIA where the permit area is in an approved BIA curb lane café closure area :

“F. The General Manager may allow a permit area for a curb lane café in a business improvement area to extend across the curb lane or parking area

of an adjacent property where an applicant or permit holder can demonstrate that their permit area is in accordance with a BIA curb lane café closure area approved by the General Manager and the General Manager Economic Development and Culture under Subsection G.”

16. Delete 742-9.4.G and replace it as follows to create criteria for the approval of BIA curb lane café closure areas:

- “G. The General Manager and General Manager, Economic Development and Culture, may approve a BIA curb lane café closure area where:
- (1) The Business Improvement Area where the closure area is located has submitted the following documents to the General Manager, Economic Development and Culture:
 - (a) Detailed plans showing:
 - (i) The total area of the closure area;
 - (ii) The location, length and width of each proposed permit area within the closure area; and
 - (iii) Any other information required by the General Manager or General Manager, Economic Development and Culture, for the purposes of balancing multiple uses of the street, adjacent permit areas, neighbouring properties, and applicable traffic safety and accessibility requirements.
 - (b) A document listing the business name and address of each proposed permit holder for each proposed permit area within the closure area;
 - (2) The proposed closure area meets the following requirements:
 - (a) Each proposed permit area complies with the requirements of this Chapter except permit areas may extend across the curb lane or parking area of an adjacent property contrary to Subsection I; and
 - (b) The closure area complies with a traffic plan for the street approved by the General Manager.
 - (3) The Business Improvement Area agrees to the following terms and conditions:
 - (a) Where a BIA curb lane café closure area is approved, the Business Improvement Area where the closure has operated will provide the General Manager and General Manager, Economic Development and Culture or designate, with an end of season report which details the use of BIA curb lane closure area to the satisfaction of the General Manager prior to the end of the season each year where a closure operated.
 - (4) The Business Improvement Area has not failed to comply with any of the requirements under this Subsection G in the preceding 12 months.”

17. Add new sections 742-9.4 G.1 and G.2 as follows:

- G.1 The General Manager may withdraw its approval of a BIA curb lane café closure area, in whole or in part, at any time where:
- (1) the Business Improvement Area does not comply with Subsection G;

- (2) the Business Improvement Area requests the withdrawal of the approval;
- (3) the permit holders operating in the BIA curb lane café closure area do not comply with this Chapter; and/or
- (4) access to the street is needed for street improvements, civil works or other municipal purposes.

G.2 Where the General Manager withdraws its approval of a BIA curb lane café closure area under section G.1, in whole or in part, the General Manager will reduce the permit areas of any curb lane café permit areas located in the BIA curb lane café closure area and the reduction in permit areas will be effective as of the next March 1 after notice is provided to the permit holders.

18. Amend section 742-9.4. H. to replace the Executive Director with the General Manager for who can allow an extended permit area for a property not in a Business Improvement Area, so that it now reads:

“The General Manager may allow a permit area for a curb lane café not in a Business Improvement Area to extend across the curb lane or parking area of an adjacent property where the following requirements are met:”

19. Add a new section 742-9.4I as follows:

I. Except as provided for in this section, every permit area shall only extend as far as the property lines of the permit area's associated establishment.

20. Amend section 742-9.5. C.(1) to update the dates that curb lane cafe and public parklets are required to be cleared from October 15 and May 1 to October 16 to April 30 so that it now reads:

“(1) from October 16 of one year to April 30 of the next year, inclusive, and/or”

21. Add a new section 742-9.5. D to permit the year round of operation of curb lane cafés within the King Street Transit Corridor, so that it reads:

“D. Despite Subsection C, the General Manager may permit a curb lane café on King Street East and West between Bathurst Street and Jarvis Street from October 16 of one year to April 30 of the next year, inclusive, where the permit holder pays an additional permit fee for the use during this period.

22. Amend section 742-10.4. A. (3) to amend the clearances required between a permit area and a transit stop - being 30 metres upstream and 18 metres downstream, so that it now reads:

“(b) no less than 30 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;”

And

“(c) no less than:

- (i) 18 metres downstream of the location of a transit stop; or
- (ii), if there is no transit stop, 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; and”

23. Amend section 742-10.4. B. (2) to increase the allowable maximum height for opaque portions of a vertical barrier on a curb lane café and public parklet from 0.9 metres to 1.2 metres, so that it now reads:

“have a vertical barrier at least 0.9 metres in height and any opaque portions of any barrier must not be greater than 1.2 metres in height, measured from the surface of the street, to preserve sight lines;”

24. Amend sections 742-12.1 A and B to remove all instances of “in the case of public parklets” and add the General Manager alongside the Executive Director in reference to the authorities to reduce or relocate of a permit area such that either the Executive Director or General Manager can exercise these powers, so that it now reads:

“A. The Executive Director or General Manager may direct a permit holder to reduce the size of a permit area or relocate a permit area at any time if, in the opinion of the Executive Director or General Manager, the permit area poses a risk to the health or safety of any person, and where the reduction or relocation terminates the risk to the health and safety of any person, to the satisfaction of the Executive Director or General Manager.”

and

“B. The Executive Director or General Manager may amend the size and/or location of all permit areas along a street if the street is subject to substantial reconstruction and/or redesign in order to satisfy the pedestrian clearway requirements of this Chapter following such reconstruction and/or redesign.

25. Amend section 742-12.1. C. to provide the General Manager the authority to issue refunds in the case of permit reductions and relocations, so that it now reads:

“Where a permit area is reduced in accordance with this section, the Executive Director or General Manager shall refund the permit holder the pro-rated portion of the annual permit fee applicable to the reduced area by square metre to each remaining day in the permit term.”

26. Amend section 742-12.2. A. and B. to remove all instances of “in the case of public parklets” so either the Executive Director or General Manager can

exercise the authorities in reference to the temporary removal for civil works or emergencies, so that it now reads:

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

and

“B. The Executive Director or General Manager may direct that any installation be removed from within a permit area without notice in the case of an emergency.”

27. Amend section 742-12.2. C. to provide the General Manager the authority to issue refunds in instances of temporary removals of sidewalk café or public parklet installations for civil works or emergencies, so that it now reads:

“Where a permit is cancelled or installations in a permit area are temporarily removed due to an emergency, planned street improvement or civic works, the Executive Director or General Manager shall refund the permit holder the pro-rated portion of the annual permit fee applicable for each remaining day in the permit year.”

28. Amend sections 742-13.1. D. , 742-13.1. D (3) and E. to remove all instances of “in the case of public parklets” to provide the General Manager authority to cancel all permit types in the listed scenarios, so that it now reads:

“D. The Executive Director or General Manager may cancel a permit without reporting to Community Council if:”

and

“D. (3) The permit holder has failed to remove all the sidewalk café, public parklet, or marketing display elements from the sidewalk or street within thirty days of receiving notice in writing from the Executive Director or General Manager instructing the permit holder to remove all elements from the sidewalk or street;”

and

“E. Where a permit is cancelled in accordance with Subsection D, the Executive Director or General Manager shall provide the permit holder a written notice of the permit cancellation, describing the information that the City has to justify the cancellation.”

29. Amend section 742-13.1. D. (1) to reduce the time period from 90 days to 30 days for where the Executive Director or General Manager may cancel a permit

without reporting to Community Council if the annual permit fee for the applicable zone has not been paid, so that it now reads:

“the annual permit fee for the applicable zone has not been paid 30 days after the payment due date;”

30. Amend sections 742-13.2. A. B. C. and G. to provide the General Manager the authority to suspend all permit types, so that it now reads:

“A. The Executive Director or General Manager shall immediately suspend a permit without reporting to Community Council if they have reason to believe that the permit holder has not complied with § 742-9.1 or § 742-9.5.”

and

“B. A suspension issued by the Executive Director or General Manager under Subsection A shall last until the next April 14.”

and

“C. Where a permit is suspended in accordance with Subsection A, the Executive Director or General Manager shall provide the permit holder with a written notice of the suspension, describing the information that the City has to justify the temporary suspension.”

and

“G. Where a permit is suspended in accordance with Subsection E, the Executive Director or General Manager shall provide the permit holder with a written notice of the permit suspension, describing the information that the City has to justify the suspension.”

31. Amend section 742-13.2. E. and F. to remove all instances of “in the case of public parklets” so that the General Manager may suspend all permit types, so that it now reads:

“E. The Executive Director or General Manager shall immediately suspend a permit for a period of 30 days or until such time as the item can be considered by Community Council if:”

And

“F. Following the issuance of a permit suspension under Subsection E, the Executive Director or General Manager shall forward a report to Community Council with the following:”

32. Amend section 742-13.2E. (4) requiring a permit be suspended if any law or by law has been violated so that it now reads:
33. “(4) the permit holder has been convicted of an offence for a violation of any law or by-law in relation to the permit area.”
34. Amend section 742-13.3. A. and B. to add the General Manager as a permit issuer and provide the General Manager the authority to recover a permit, so that it now reads:

“A. No person shall display a permit issued by the Executive Director or General Manager:”

and

“B. The Executive Director or General Manager shall recover a permit notice displayed on a street door or in a lower front window of an associated establishment during the period of time when the permit has been suspended, or permanently in the case of a cancellation.”

35. Amend section 742-13.4. A. (2) to remove instances of “in the case of public parklets”, so that it now reads:

“(2) replace and restore the sidewalk or a street to a safe and proper condition to the satisfaction of the Executive Director or the General Manager.”

36. Amend section 742-14.3. B. to add the General Manager as an authority in the issuance of an order or notice to comply, so that it now reads:

“B. An order or notice of violation may be of immediate effect should the Executive Director or General Manager determine that a delay would result in circumstances that endanger the health or safety of any person or similarly serious consequences.”

37. Amend Appendix C Utility and Infrastructure Clearances table:

Remove:

Telecom Infrastructure	Temporary Fixed Elements	Temporary Portable Elements
In-ground access covers	0.6 metres	0.3 metres

Add:

Telecom Infrastructure	Temporary Fixed Elements	Temporary Portable Elements
In-ground access covers	2.0 metres	0.3 metres
Above-ground access units	1.0 metres	0.3 metres