

**Chapter 237**

**NATHAN PHILLIPS SQUARE**

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**Schedule A, Map of Nathan Phillips Square**

**[HISTORY: Adopted by the Council of The Corporation of the City of Toronto 1994-10-11 as By-law No. 1994-0784. Amendments noted where applicable.]**

**ARTICLE I  
Use of Square<sup>1</sup>**

**§ 237-1. Definitions.**

As used in this Article, the following terms shall have the meanings indicated:

**CAMP** - Includes sleeping in the Square during the day or night, whether or not a tent or temporary abode of any kind is used. **[Added 2005-02-03 by By-law No. 99-2005]**

**COMMISSIONER** - The Commissioner of City Property.

**DESIGNATED AREA** - An area designated under § 237-6A for the parking of portable display units for the purpose of vending.

**HIGHWAY** - A common and public highway and includes any bridge, trestle, viaduct or other structure forming part of the highway and, except as otherwise provided includes a portion of the highway. **[Added 2014-04-03 by By-law No. 285-2014]**

**PERMIT ZONE** - Any part of the Square that is designated by shading on the map in Schedule A at the end of this chapter.

**PORTABLE DISPLAY UNIT** - A pushcart or other portable display unit approved under this chapter for the purpose of vending.

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<sup>1</sup>Editor's Note: This Article was passed under the authority of sections 6 and 8 of The City of Toronto Act, 1965, S.O. 1965, c. 171, as amended, and section 2 of The City of Toronto Act, 1973, S.O. 1973, c. 213, as amended.

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SMOKE OR SMOKING - Includes the carrying of a lighted cigar or cigarette, pipe or any other lighted material. **[Added 2014-04-03 by By-law No. 285-2014]**

SQUARE - The land delineated by a heavy line on the map in Schedule A at the end of this chapter.

VENDING - To sell, offer for sale, display, place or expose any goods, wares, merchandise, products, crafts, jewellery, refreshments, foodstuffs or any other items.

VENDOR - Any person who, under the authority of an agreement entered into under § 237-6, sells, offers for sale, vends, displays, places or exposes any goods, wares, merchandise, products, crafts, jewellery, refreshments, foodstuffs, refreshments or any other items.

**§ 237-2. Prohibited activities.**

No person shall, within the limits of the Square:

- A. Climb or be on any arch, tree, roof of a building or any part of a building, structure or fixture, except any portion which is a public walkway. **[Amended 1995-05-15 by By-law No. 1995-0362]**
- B. Set off fireworks except theatrical special effects pyrotechnics under Class 7.2.5 of the Federal Explosives Regulations.
- C. Enter or be in the reflecting pool or throw or place objects in it.
- D. Stand on any receptacle or container for plants, shrubs or trees.
- E. Ride a bicycle.
- F. Wear any ice skates other than on the part of the Square that is physically laid out and intended for use by the public as an ice rink area.
- G. Drop or throw any object from a roof of a building or from the Colonnade.
- H. Throw or in any way propel any stone or other missile or projectile in a manner which may cause injury or damage to or endanger any other person or property or which interferes with the use and enjoyment of the Square by any other person.
- I. Light any fire.
- J. Ride or stand on any skateboard, roller skate or roller blade.
- K. Release or hand out helium-filled balloons.

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- L. Light or carry any candle or torch, except a light stick.
- M. Camp or erect or place a tent or temporary abode of any kind. **[Added 2005-02-03 by By-law No. 99-2005]**
- N. Smoke, except on that part of a Square which is located on a highway. **[Added 2014-04-03 by By-law No. 285-2014]**

**§ 237-2.1. No-smoking signs. [Added 2014-04-03 by By-law No. 285-2014]**

- A. No-smoking signs shall be posted conspicuously on a Square in accordance with this section.
- B. A no-smoking sign posted in accordance with this section shall:
  - (1) Contain a no-smoking symbol containing a circle with a diameter of no less than 15 centimetres;
  - (2) Contain the words "No Smoking" above the no-smoking symbol and the words "former City of Toronto Municipal Code Chapter 237" below the no-smoking symbol;
  - (3) Consist of two contrasting colours, or if the lettering and the graphic symbol are to be applied to a surface or to be mounted on a clear panel, the lettering and the graphic symbol shall contrast to the background colour; and
  - (4) Be posted in English and any other language the Medical Officer of Health for the City of Toronto Health Unit or any person acting under his or her authority may decide.

**§ 237-3. Activities requiring permission or permits.**

- A. No person shall, within the limits of the Square, except in accordance with terms and conditions of any permission granted by Council, including any related permit, or a permit issued by the Commissioner under § 237-5:
  - (1) Solicit for or engage in any trade, occupation, business or calling, including producing, manufacturing, selling or offering for sale any goods, wares or merchandise, but this subsection does not apply to the sale of newspapers.
  - (2) Drive or park any motor vehicle.

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- (3) Use any apparatus, mechanism or device for the amplification of the human voice, music or other sound, or any sound-producing or noise-making instrument or device.
- (4) <sup>2</sup>
- (5) Erect or place a booth or other structure of any kind.
- (6) Affix any signage, flyer, fabric or other substance to any building, walkway, Colonnade, column, arch or the Peace Garden.
- (7) Set off any theatrical effects pyrotechnics under Class 7.2.5 of the Federal Explosives Regulations, and any application for permission to set off these types of fireworks is subject to the approval of the Chief Fire Official.

B. Permit zone restrictions.

- (1) No person shall, within the permit zone, except in accordance with the terms and conditions of any permission granted by Council, including any related permit, or a permit issued by the Commissioner under § 237-5:
  - (a) Use any public address system, amplifier, loudspeaker or any other similar instrument or device and if that instrument or device is under the control of an employee of the City Property Department and, if owned by the City, the applicable charge is paid for the employee's services.
  - (b) **[Amended 1995-05-15 by By-law No. 1995-0362]** Drive and park any motor vehicle on the Square when it is essential to facilitate an event unless:
    - [1] The motor vehicle is escorted by an employee of the City who walks in front of it.
    - [2] The motor vehicle operates with flashing lights.
    - [3] The applicant provides a certified copy of a certificate of insurance, satisfactory to the City Treasurer, in which the City is a named insured and is indemnified against all liabilities which may in any way arise from the motor vehicle being permitted on the Square.
  - (c) Erect or place a platform, dais or similar structure or device.

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<sup>2</sup>Note: Section 237-3A(4) was deleted 2005-02-03 by By-law No. 99-2005.

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- (d) Display an exhibit of any kind.
  - (e) Carry on or engage in a demonstration of any sport.
  - (f) Present or take part in any dramatic, musical, artistic or other performance. Poetry reading is deemed not to be an artistic or other performance within the meaning of this subsection, but is deemed to be public speaking.
  - (g) **[Amended 1995-05-15 by By-law No. 1995-0362]** Erect any tent for the enhancement of events and for the provision of shelter from heat or inclement weather during the event unless:
    - [1] Any necessary permits are first obtained from the Department of Buildings and Inspections.
    - [2] The tent is erected and secured by a professional tent erection company so that:
      - [a] The slabs on the Square are not damaged; and
      - [b] All fastening devices are clearly marked.
    - [3] The applicant provides a certified copy of a certificate of insurance, satisfactory to the Commissioner of Finance, in which the City is a named insured and is indemnified against all liabilities which may in any way arise from the tent being permitted on the Square.
  - (h) Sell items by registered charities and not-for-profit organizations at designated locations, but only for fundraising activities associated with the event.
  - (i) Erect any sign, including any banner, for an event on which corporate sponsorship is acknowledged, except that no permanent advertising signage is permitted.
  - (j) Distribute non-commercial literature which is not associated with an event. **[Added 1995-09-18 by By-law No. 1995-0571]**
- (2) No permit shall be issued for any of the activities or things described in Subsection B(1) to a person who has been charged under any section of this Article if the proceedings resulting from the charge have not been finally terminated.

- (3) Sale of certain items.
  - (a) An applicant for a permit for an activity under Subsection B(1) may also apply for permission, for the number of persons specified by the applicant, to sell or distribute items such as but not limited to buttons, t-shirts, books, magazines, literature or other publications, during the event and if the sale of the items is directly related to the activity.
  - (b) Where a permit is issued for an activity under Subsection B(1), the Commissioner shall also issue identification markers for each person for whom permission has been sought to sell or distribute items during the activity, and no provision of this Article shall apply to prevent the sale or distribution of any such item during the activity by a person displaying the identification marker if the sale or distribution of the item is otherwise lawful.
- (4) Despite any other provision of this Article, the playing of unamplified musical instruments is prohibited during an activity for which a permit has been issued unless prior permission has been granted by the Commissioner, by the City Services Committee or by Council.

**§ 237-4. Permit restrictions.**

- A. **[Amended 1995-05-15 by By-law No. 1995-0362]** Subject to § 237-3B(2), the Commissioner shall issue permits for carrying on, engaging in or doing any of the activities or things described in § 237-3B(1) within the permit zone, except that no permit shall be issued for, and despite the issuance of a permit no person shall carry on, engage in or do, any of the following activities or things:
  - (1) Subject to § 237-3A and B(1)(i), for a commercial purpose;
  - (2) If the period and place have been in whole or in part previously approved under a permit issued to another person; or
  - (3) If the place is:
    - (a) Physically unfit for use by the public due to conditions caused by the weather or arising out of or related to Square maintenance or development.
    - (b) A garden or grassed area.
    - (c) A part of the Colonnade.

- B. Whenever a permit is not issued for any reason in Subsection A(2) or (3), a suitable alternative period and place shall be offered by the Commissioner to the applicant.
- C. Despite Subsection A, if the Commissioner is of the opinion that the carrying on, engaging in or doing of any activity or thing referred to in the subsection may, if permitted, lead to or result in injury to persons or damage to property, a permit shall not be issued, but the Commissioner shall report the matter to Council for its decision.
- D. Despite Subsection A, if the Commissioner is of the opinion that a period of two (2) hours or less is required between two (2) events to permit clean-up or set-up in the permit zone, the permits shall not be issued unless a period of not more than two (2) hours is provided in the permits for the clean-up or set-up. **[Added 1995-05-15 by By-law No. 1995-0362]**

**§ 237-5. Denial of permit; appeal.**

- A. Where the Commissioner determines that an application for permit as received does not comply with the provisions of this Article, the Nathan Phillips Square guidelines or the policies of Council, an applicant may appeal the refusal to the City Services Committee.
- B. Where an applicant has appealed the Commissioner's refusal to the City Services Committee, the Committee, after affording the applicant, any objectors and any other interested persons the opportunity to be heard on the matter, shall recommend to Council whether a permit should be granted, but a permit shall not be recommended or granted unless the Committee or Council is of the opinion that the application complies with the provisions of this Article, the Nathan Phillips Square guidelines and the policies of Council.

**§ 237-6. Leasing of vending locations.**

- A. Council may, upon consideration of the recommendations of the Commissioner, designate areas on the Square which may be used for the purpose of vending.
- B. Requests for proposals may be issued by the Commissioner for the operation within the Square of portable display units for vending in designated areas, and Council may establish the payment of annual fees in accordance with the proposal approved by it and may require the successful proponent to enter into an agreement with the City upon such terms and conditions as may be required by the Commissioner, in consultation with the City Solicitor, including the terms and conditions contained in Subsection E.
- C. Despite anything contained in this section or any other by-law, an agreement entered into under this section shall permit the vendor to vend from a portable



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display unit in a designated area according to the terms and conditions prescribed in the agreement and this section.

- D. The vendor shall have the exclusive use of the designated area described in the agreement.
- E. Any agreement entered into under this section shall contain the following:
  - (1) The vendor shall pay an annual fee as set out in the agreement.
  - (2) The vendor shall provide a certified copy of a certificate of insurance in accordance with this section, satisfactory to the Commissioner of Finance, in an amount of at least two million dollars (\$2,000,000.) per occurrence in which the City is a named insured and is indemnified against all liabilities which may in any way arise from the use of the designated area or anything undertaken or neglected to be undertaken in connection with the permitted use.
  - (3) The vendor shall agree to the following terms and conditions:
    - (a) The vendor agrees that the portable display unit shall be constructed of wood, stainless steel, galvanized metal, aluminum or steel with a baked enamel finish or other durable materials and that it shall be constructed and maintained to the satisfaction of the Commissioner.
    - (b) The vendor agrees that no sponsorship or advertising shall be placed on any umbrella or canopy used in association with the portable display unit.
    - (c) Where the portable unit is equipped with a propane heater, the vendor agrees to provide a report, from the holder of a certificate under section 10 of Ontario Regulation 250/94 made under the Energy Act, with respect to propane heaters, indicating that the propane heater meets the requirements of the Storage, Handling and Utilization Code, being Ontario Regulation 250/94.
    - (d) The vendor agrees to make all necessary repairs and maintain the appearance of the portable display unit in a manner satisfactory to the Commissioner.
    - (e) The vendor agrees to vend the items listed in the proposal or agreement and shall not change, alter, add or delete items without the prior written approval of the Commissioner.

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- (f) The vendor agrees at all times to observe and comply with, and to ensure strict observance of, all statutory requirements, rules, regulations and by-laws of any municipal or other authority which in any manner affect or relate to the use of the designated area for vending purposes.
- (g) The vendor agrees that there may be at any given time no more than three (3) agents or employees engaged in selling the vendor's products from the portable display unit in the designated area and and that the vendor and any agents or employees, where required by By-law No. 20-85 of Metropolitan Toronto, as amended,<sup>3</sup> shall hold a valid licence in good standing, issued by the Metropolitan Licensing Commission for the sale of the items proposed to be sold from the portable display unit.
- (h) The vendor agrees that the portable display unit shall not be left unattended in a designated area.
- (i) The vendor agrees to, at all times and at his or her own expense, keep and maintain the designated area and any area adjacent to it in a clean, sanitary and attractive condition free from papers, rubbish and debris of all kinds, satisfactory to the Commissioner.
- (j) The vendor agrees to allow the Commissioner, the Commissioner of Public Works and the Environment, their designates, or any person authorized by a public utility, to enter the designated area for the purpose of installation, maintenance and repair of any pavement, supports, pipes, cables, wires, poles or any other installation or utility.
- (k) The vendor agrees that the term of the agreement, including any option to renew, shall be as provided for in the request for proposals or as otherwise approved by Council and contained in the agreement, so long as the Commissioner is satisfied that the vendor is not in default of any of the provisions of the agreement. Where the Commissioner is not satisfied, he or she shall submit a report to the City Services Committee which shall, after affording the permit holder the opportunity to be heard, report to Council. After consideration of the recommendations of the Commissioner and the City Services Committee, Council may take such action as it deems fits in accordance with the agreement and this section.
- (l) The vendor agrees that the Commissioner may, upon written notice and without affording the vendor an opportunity to be heard, for

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<sup>3</sup>Editor's Note: Copies of former Metropolitan Toronto by-laws are available from the City Clerk's Office.

purposes of special events, maintenance or construction or where he or she knows or has reason to believe that the health or safety of the public is endangered, suspend permission to occupy the designated area for up to four (4) weeks or until the next meeting of Council, whichever comes first, and no compensation or fee reimbursement of any kind shall be payable by the City to the vendor.

- (m) The vendor agrees, upon the cancellation, revocation or suspension of the permission to use the designated area by Council or the Commissioner, that he or she shall, at his or her own cost and expense, immediately remove the portable display unit and all appurtenances related to it from the designated area upon receiving notice, in writing, from the Commissioner to do so and shall not make any claim against the City on account of the removal and shall leave the designated area in a safe and proper condition to the satisfaction of the Commissioner. If the vendor neglects, refuses or fails to do so within the time specified in the notice, the Commissioner may remove the portable display unit from the designated area and restore the designated area to a safe and proper condition and may charge the costs of removal and restoration to the vendor. The certificate of the Commissioner shall be final in determining the costs, and the City may recover the costs from the vendor in any court of competent jurisdiction as a debt owed to the City by the vendor.
- (n) The vendor agrees that City Council may cancel, revoke, refuse to renew or suspend permission to use the designated area in the event of non-compliance with the agreement or this section, or any other reason as may be deemed sufficient, after allowing the vendor the opportunity to be heard by the City Services Committee, and no compensation or fee reimbursement of any kind shall be payable by the City to the vendor.
- (o) The vendor agrees to display any identification or identification marker required by the Commissioner in such a way that it is clearly visible on the vendor's portable display unit.
- (p) The vendor agrees that he or she may not assign or transfer the agreement or permission for use of the designated area.
- (q) The vendor agrees that any violation of the terms of the agreement may be deemed to be a violation of this section and that the vendor, in addition to any remedies available under the agreement, may also be charged with an offence and subject to the penalty prescribed by § 237-11.

- (r) The Commissioner shall cause each designated area to be clearly marked and delineated so as to identify to the public that the designated area has been designated for the use of the vendor, in accordance with the agreement and this section. The vendor shall not sell or display any items outside the designated area.
  - (s) The vendor agrees that he or she shall not use the designated area in whole or in part for any purpose other than the sale of the vendor's products from a portable display unit in accordance with this section and the agreement.
- F. Any violations of the terms and conditions of an agreement entered into under this section shall be deemed to be a violation of this Article.
- G. No person shall improperly accept the assignment or transfer of an agreement entered into under this section or the permission for the use of a designated area.
- H. Despite any other provision of this section, no person shall vend in a designated area established under Subsection A, or otherwise occupy or use at any time any designated area for the purposes of vending, or park, stop or stand in any designated area any vehicle or portable display unit, unless the owner of the portable display unit is the holder of an agreement for the use of the designated area and the vehicle is a portable display unit as defined in this section and the agreement.

**§ 237-7. Submission of permit applications.**

All applications for a permit for the use of the Square shall be submitted to the Events Co-ordinator in the City Clerk's Department, who shall be responsible for:

- A. The management, design, development, delivery and monitoring of City events on the Square; and
- B. The facilitating and monitoring of all other events on the Square.

**§ 237-8. Compliance with Human Rights Code.**

Persons or organizations seeking to hold events on Nathan Phillips Square shall sign a declaration stating that:

- A. In the services that are being provided to the public or by the person or organization seeking to hold the event, the person or organization complies in all respects with the Ontario Human Rights Code.

- B. Any event to be held on the Square shall be open to all persons interested in attending the event.

**§ 237-9. Exempt activities.**

This Article does not apply to:

- A. The driver, operator or crew member of an ambulance or police or fire department vehicle, or the rider or attendant of a police department horse, while in the performance of his or her duty.
- B. An employee of the City while doing work or performing services for or on behalf of the City.
- C. A person hired or engaged by the City to do any work or perform any services within the limits of the Square.
- D. A person engaged in location filming during a period and at a place as have been first approved in a permit issued by the City's Film Liaison with the approval of the Commissioner of City Property if the activities under the permit are carried on, engaged in or done during the period and at the place and in a manner consistent with the permit.

**§ 237-10. Right of entry.**

In addition to any penalty provided by this Article and subject to the provisions of this Article, the right of any person to enter or be upon the Square is conditional upon the person's refraining from carrying on, engaging in or doing any activity or thing that is prohibited under this Article.

**§ 237-11. Offences.**

Any person who contravenes any provision of this Article is guilty of an offence and, on conviction, is liable to a fine of not more than the maximum fine under section 61 of the Provincial Offences Act.<sup>4</sup>

**§ 237-12. Transition.**

An unexpired permission or permit issued under By-law No. 34-74 with for the use of any part of the Square is deemed to be the permission or permit for the same use of the part of the Square under this Article.

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<sup>4</sup>Editor's Note: This section was passed under the authority of subsection 1(1) of the City of Toronto Act, 1990 (No. 3), S.O. 1990, c. Pr44, and, under section 61 of the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended, a person convicted of an offence under this section is liable to a fine of not more than five thousand dollars (\$5,000.).

**ARTICLE II**  
**Erection of Signs**

**§ 237-13. Definitions.**

As used in this Article, the following terms shall have the meanings indicated:

COMMISSIONER - The Commissioner of City Property.

ERECTION OF A SIGN - Includes the erection of a sign or other advertising device or posting of a notice.

SQUARE - The land delineated by a heavy line on the map in Schedule A at the end of this chapter.

**§ 237-14. Permit required.**

- A. No person shall erect any sign, other than a sign referred to in Subsection B, or cause or permit any sign to be erected on the Square unless a permit for it has been issued by the Commissioner under this Article and the sign is in compliance with the permit.
- B. The car wash and service station location under the surface of the Square and the Parking Authority of Toronto may maintain in their present positions on the Square any sign which was erected on the Square on July 7, 1967.

**§ 237-15. Permit conditions.**

The Commissioner, upon receipt of an application describing the location, physical structure and dimensions of a sign and the wording or other inscription on it, in sufficient detail to ensure compliance with this Article, shall issue a permit to allow the erection of the sign if:

- A. The applicant is the Parking Authority of Toronto or the proprietor or operator of the car wash and service station and the sign is similar in form and location to a sign the maintenance of which is permitted by § 237-14B.
- B. The applicant is a person, corporation or association who or which has been given permission by the Council to use the Square for purposes of an exhibit, concert, performance or activity and the sign is neatly printed on cardboard stock, masonite or similar material and if the sign is not a permanent advertising sign.
- C. The applicant is an officer, employee or agent of a municipality or local board of a municipality occupying part of the City Hall or other part of the Square and the sign is to be erected in connection with the carrying out of a function of the municipality or local board.

- D. The applicant holds from the City a lease or licence of a part of the City Hall or other part of the Square and is authorized by the lease or licence to erect the sign.

**§ 237-16. Exemptions.**

- A. Council may, despite anything in this Article, upon application to it by the Parking Authority of Toronto or the proprietor or operator of the car wash and service station, made to the Council through the Commissioner in the manner set out in § 237-15, grant to the Authority or the proprietor or operator permission to erect a sign other than those referred to in § 237-15A.
- B. If such permission is given, the Commissioner shall issue a permit.

**§ 237-17. Sign restrictions.**

A permit issued by the Commissioner under this Article shall prescribe the location, physical structure, dimensions and wording or other inscription on it of any sign to be erected under the permit.

**§ 237-18. Removal of signs.**

The Commissioner may remove any sign erected on the Square other than a sign erected in compliance with this Article.

**§ 237-19. Offences.**

Any person who contravenes any provision of this Article is guilty of an offence and, on conviction, is liable to a fine of not more than the maximum fine under section 61 of the Provincial Offences Act.<sup>5</sup>

**§ 237-20. Transition.**

An unexpired or permit issued under By-law No. 306-67 for the erection of a sign on any part of the Square is deemed to be the permit required for the erection of the sign on the part of the Square under this Article.

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<sup>5</sup>Editor's Note: This section was passed under the authority of subsection 1(1) of the City of Toronto Act, 1990 (No. 3), S.O. 1990, c. Pr44, and, under section 61 of the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended, a person convicted of an offence under this section is liable to a fine of not more than five thousand dollars (\$5,000.).