

# CITY OF KELOWNA

## BYLAW NO. 9012

### Amendment No. 1 to Traffic Bylaw No. 8120

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The Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. THAT "Traffic Bylaw No. 8120" be amended as follows:

(a) Amending Section 7.1 Sidewalk/Roadway Occupancy Permits of **PART 7 – SIDEWALK/ROADWAY OCCUPANCY** by:

(i) Replacing Subsection 7.1.3, 7.1.5, 7.1.6, 7.1.10, 7.1.11 and 7.1.15 with the following:

**"7.1.3 Plan of 'Permit area'.** Applicants for a **sidewalk/roadway occupancy permit** shall submit a plan drawn to a 1:100 scale of the **sidewalk, walkway, boulevard, or roadway** which includes the following:

- (a) details of the business frontage plus 3 metres on either side;
- (b) elevations drawings of the permit area;
- (c) entrances to buildings;
- (d) landscaping, parking zones and bus stop locations; and
- (e) all existing and proposed street furniture and appurtenances.

**"7.1.5 'Permit areas – roadways'.** **Sidewalk/roadway occupancy permits** to occupy a portion of **roadway** for temporary dining or seating shall only be issued in conjunction with the Seasonal Extension for Sidewalk Cafes program administered by the **City**. These permits shall only be issued to occupy a portion of **roadway** to a maximum depth of 2.5 metres from the face of the curb in areas of on-street parallel parking or to a maximum depth of 4.0 metres from the face of the curb in areas of on-street angle parking. A permit may be issued to occupy a minimum of 2 and a maximum of 3 angle parking stalls or, a minimum of 1 and a maximum of 2 parallel parking stalls, except that the maximum number of stalls that may be occupied in a block that contains 10 or more parallel parking stalls, or 30 or more angle parking stalls, on both sides of the street from intersection from intersection, is 10% of the total regular parking stalls (excluding handicapped parking stalls and loading zone stalls). When a permit area requires a walkway to be rerouted onto the roadway when necessary for pedestrian or vehicular traffic safety, an additional parking stall may be used for the walkway only. In all cases the occupancy of the permit area must conform to the sight lines established in Section 2.2 of this Bylaw.

- 7.1.6 **Permit Expiration.** **Sidewalk/roadway occupancy permits** may be issued for up to one year and shall expire on December 31<sup>st</sup> of each year. Should the **City** require the use of the permit area for any reason, the **City** may cancel the permit. The **City** shall notify the Permittee of such cancellation and shall give at least 24 hours written notice to vacate the permit area. In the case of an emergency, the **City** shall order that the area be vacated immediately and that the **permit** be cancelled. An existing permit holder will be given first consideration for a permit for each of the following four years provided the existing permit is in good standing, and a completed application for the same permit area on the same terms and conditions is received by the City by December 31<sup>st</sup> of the current year.
- 7.1.10 **Conduct of Business within 'Permit area'.** Holders of **sidewalk/roadway occupancy permits** are required to ensure that the 'permit area' and immediate vicinity is kept clean and tidy and free of all garbage, and shall remove, or otherwise secure, all furniture, **vehicles** or goods between the hours of 3:00 a.m. and 6:00 a.m. each day.
- 7.1.11 **Outdoor Dining.** **Sidewalk/roadway occupancy permits** for temporary seating and tables will only be issued where the 'permit area' is in front of the establishment to which it is operationally tied, and may only occupy a space as wide as the establishment frontage unless approvals to the contrary are granted in writing by affected adjoining tenants and property owners or their agents. **Sidewalk/roadway occupancy permits** for a business that will include outdoor cooking will only be issued where the written consent of the adjoining tenants and property owners or their agents has been obtained by the applicant and submitted to the City. **Sidewalk/roadway occupancy permits** to occupy a portion of **roadway** may only occupy a space as narrow as 2 angle parking stalls or 1 parallel parking stall or, as wide as 3 angle parking stalls or 2 parallel parking stalls, regardless of the width of the establishment frontage.
- 7.1.15 **Insurance.** The applicant shall, without limiting its obligations or liabilities under this permit, procure and maintain, at its own expense and cost, the insurance policies listed in Schedule "L" not including the automobile liability insurance requirement under Section 2 of the Schedule. Further a sidewalk/roadway occupancy permit issued for temporary seating and tables on a sidewalk or walkway where there is no outdoor cooking facilities shall only require \$2,000,000.00 Comprehensive General Liability coverage. The insurance policies shall be maintained continuously from the date of commencement of the work, services and/or occupancy to be provided under this permit until the date that the **City** certifies in writing completion of the work, services and/or occupancy or such further period as may be specified in Schedule "L".

- (ii) Adding a new Subsection 7.1.17 as follows:

"7.1.17 Construction Standards. All permit areas for sidewalk/roadway occupancy permits must meet minimum design criteria established by the City including the construction must be safe and meet all applicable bylaw or other requirements whether municipal, provincial or federal; a surface structure must be constructed for the permit area and the structure must be free-standing and not anchored to the sidewalk or roadway; a fence and concrete divider must be constructed to divide the surface area from the remainder of the roadway; and any **sidewalk** or **walkway** within the permit area or adjacent to it should be fully accessible and traversable by member of the public of all abilities and levels of mobility."

- (b) Amending Schedule "L" – Insurance Requirements by:

- (i) Replacing paragraph (i) of Subsection 2.2 of **Section 2 – Insurance** with the following:

"(i) providing for an inclusive limit of not less than \$5,000,000.00 for each occurrence or accident, except in the case of a Sidewalk/Roadway Occupancy Permit issued for temporary seating and tables on a sidewalk or walkway where there is no outdoor cooking facilities the limit shall be \$2,000,000.00 for each occurrence."

2. This bylaw shall come into full force and effect and be binding on all persons as and from the date of adoption.
3. This bylaw may be cited for all purposes as 'Bylaw No. 9012, being Amendment No. 1 to Traffic Bylaw No. 8120'.

Read a first, second and third time by the Municipal Council this 5<sup>th</sup> day of May, 2003.

Adopted by the Municipal Council of the City of Kelowna this

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Mayor

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City Clerk