

# CITY OF KELOWNA

## BYLAW NO. 9129

### Amendment No. 3 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) Amend Section 7.1 **Sidewalk/roadway occupancy permits** of **PART 7 – SIDEWALK/ROADWAY OCCUPANCY** by:
    - (i) Deleting subsection 7.1.3 and replacing it with the following:

“7.1.3 Plan of ‘Permit area’. Applicants for a **sidewalk/roadway occupancy permit** shall submit:

      - (a) a plan at 1:100 scale of the proposed facility, including:
        - (i) entrances to all buildings;
        - (ii) landscaping;
        - (iii) parking zones and bus stop locations; and
        - (iv) all existing and proposed street furniture and/or appurtenances in front of, and within a distance measured from 3 meters on either side of, the business frontage;
      - (b) elevations of the **permit** area including any ramps, fences, and overhead **structures**; and
      - (c) a section through any proposed ramps.”;
    - (ii) Deleting the words “or **walkway**” from the first sentence of subsection 7.1.4;
    - (iii) Deleting subsection 7.1.5 and replacing it with the following:

“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 20 or more angle parking stalls, on both sides of the street from intersection to intersection, is 10% of the total regular parking stalls (excluding handicapped parking stalls and loading zone stalls). When a **permit** area requires **sidewalk traffic** to be rerouted onto the **roadway**, an additional parking stall may be used to accommodate the rerouting only. In all cases the occupancy of the **permit** area must conform to the sight lines established in section 2.2 of this bylaw.;

- (iv) Deleting subsection 7.1.6 and replacing it with the following:

“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 may suspend or cancel the **permit** depending on the circumstances of the emergency. An existing **permit** holder will be given first consideration for a **permit** for each of the three years following the initial **permit** year, 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.”;

- (v) Deleting subsection 7.1.9 in its entirety;

- (vi) Deleting:

- i. the words “Holders of **sidewalk/roadway occupancy permits**” from subsection 7.1.10 and replacing them with the word “Permittees”; and
- ii. the words “between the hours of 3:00 a.m. and 6:00 a.m. each day.” from subsection 7.1.10 and replacing them with the words “for a minimum of 6 hours in any 24 hour period.”;

- (vii) Deleting subsection 7.1.11 and replacing it with the following:

“**Sidewalk/roadway occupancy permits** for temporary seating and tables will only be issued where the **permit** are is in front of the establishment to which it is operationally tied (whether that establishment is ordinarily on the ground floor or first storey of the building), and may only assign a space as wide as the establishment frontage unless consent to the contrary is granted in writing by affected adjoining occupying tenant or subtenant, or if there are none, the **owners**. Where the application is in relation to an establishment on the first storey of a

building, consent must be granted by the establishment(s) located on the ground floor whose street frontage coincides with the proposed **permit** area.

In addition to any consents required pursuant to the foregoing, **Sidewalk/roadway occupancy permits** for an operation that will include outdoor cooking will only be issued where the written consent of the adjoining or below occupying tenant or subtenant, or if there are none, the **owners** has been obtained by the applicant and submitted to the **City**, and where all requirements of the Interior Health Authority have been met, and where all necessary **permits** for operation of cooking appliances have been obtained.”;

- (viii) Deleting subsection 7.1.12 in its entirety;
- (ix) Deleting the words “Holders of **sidewalk/roadway occupancy permits**” from subsection 7.1.13 and replacing them with the word “Permitees”;
- (x) Deleting the last sentence of subsection 7.1.15 and replacing it with the following:

“The insurance policies shall be maintained continuously from the date of commencement of the **permit** until the date that the **permit** expires or is cancelled, or such further period as may be specified in Schedule “L” to this bylaw.”

- (xi) Deleting the references in subsections 7.1.15 and 7.1.16 to the “applicant” and replacing them with “permitee”;
- (xii) Deleting subsection 7.1.17 and replacing it with the following:

“7.1.17 Design and Construction.

- (a) 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 **structure** constructed for the **permit** area, or constructed in order to reroute **sidewalk traffic** around the **permit** area, must be free-standing and not anchored to the **sidewalk** or **roadway**, and a fence must be constructed to separate any **permit** area which extends into a **roadway** from the remainder of the **roadway**.
- (b) Where **sidewalk traffic** is rerouted around a **permit** area such that a **walkway** projects into the usual **roadway**, it must be constructed as follows:

- (i) with a minimum width of 2.0 metres except as provided in this subsection;
    - (ii) the width of the **walkway** must not be able to be encroached upon by any vehicle or any element of the operations or **structures** within the **permit** area;
    - (iii) the width of the **walkway** may be encroached upon and reduced to a width of 1.8 metres by existing street appurtenances including, but not limited to, light standards, fire hydrants, parking meters and the like;
    - (iv) no angle along the horizontal plane of a **walkway** can be less than 90 degrees; and
    - (v) there can be no change in elevation between a **walkway** and the point at which it joins the existing **sidewalk.**"; and
  - (b) Amend **PART 7 – SIDEWALK/ROADWAY OCCUPANCY PERMITS** of **SCHEDULE "A" FEES** by:
    - (i) Deleting the provision under Subsection 7.1.6 Permit Fee referring to Temporary Seating and/or Tables and replacing it with the following:

"Temporary Seating and/or Tables: the greater of either the estimated lost parking revenue due to use of a parking space(s) pursuant to the **permit** or \$8.00 per square metre of **permit** area used for patron seating, for each month, on a pro rata basis, that the **permit** area is in operation or any structures, furniture, appurtenances, or other items are in place in the **permit** area. Notwithstanding the foregoing, the **permit** fee for new **permits** issued for Lawrence Avenue or Leon Avenue shall be reduced to 50% of the applicable fee for the first year of the **permit.**"
- 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. 9129, being Amendment No. 3 to Traffic Bylaw No. 8120'.

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Read a first, second and third time by the Municipal Council this 9<sup>th</sup> day of February, 2004.

Adopted by the Municipal Council of the City of Kelowna this      day of                      , 200 .

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Mayor

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City Clerk