

CITY OF KELOWNA

BYLAW NO. 9446

Amendment No. 5 to Traffic Bylaw No. 8120

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) adding the following new paragraph 7.1.3A Risk Assessment in its appropriate location:

“All existing or proposed outdoor seating areas must meet identified performance criteria and undergo a risk assessment evaluation provided by the City of Kelowna. Where an existing or proposed facility does not meet the minimum standards of the evaluation the applicant shall be required to take appropriate measures to mitigate these risks, otherwise the permit shall be denied or cancelled as applicable.”;
 - (ii) amending Paragraph 7.1.5 'Permit areas – roadways' by:
 - (a) deleting the words “Seasonal Extension for Sidewalk Cafes” and replacing them with “Sidewalk Café Extension Program”;
 - (b) deleting the figure “10%” before the words “of the total regular parking stalls” and replacing it with the figure “20%”; and
 - (c) adding the following before the last sentence in this paragraph:

“Notwithstanding the above, a permit may be considered if it would result in more than 20% of the total regular parking stalls (excluding handicapped parking stalls and loading zone stalls) on a block being taken out of use. In this instance, the City’s Parking Coordinator will conduct an evaluation that will take into account traffic flows on the street in question; as well as parking usage. Where the parking Coordinator determines, based on that evaluation, that an additional seating area, as proposed by the applicant, does not negatively impact the availability of on-street parking, a permit will be granted, provided all other requirements for a permit are met.”
 - (iii) deleting the following in Paragraph 7.1.6 Permit Expiration:

“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 31st of the current year.”

and replacing it with:

"An existing **permit** holder will be given first consideration for a **permit** renewal for the same **permit** area and on the same terms and conditions, provided the existing **permit** is in good standing and payment for the permit has been renewed by December 31st of the current year."

- (iv) adding the following new paragraph 7.1.7A Appeal in its appropriate location:

"7.1.7A Appeal An applicant may appeal a decision made under this part to the Kelowna Parking Committee by delivering a written request to the Parking Coordinator.";

- (v) adding to paragraph 7.1.10 Conduct of Business within 'Permit area' after the words "Permittees 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 for a minimum of 6 hours in any 24 hour period." the following, "Permittees are required to remove all furniture, **vehicles** or goods from the permit area during October 1st to April 30th unless it is being used by patrons each day that the establishment is open for business."

- (vi) deleting paragraph 7.1.17 Design and Construction and replace 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:

- (i) be free-standing and not anchored to the **sidewalk** or **roadway**;
- (ii) remain open to the street and to the sky; and
- (ii) not restrict views in and out of the seating area in any direction; and

a fence must be constructed to separate any **permit** area which extends into a **roadway** from the remainder of the **roadway**.

- (b) Where any portion of a structure constructed for the **permit** area or constructed in order to reroute sidewalk traffic around the **permit** area is attached to a building, the applicant must obtain a building permit as required by bylaw, and meet current building standards.

- (c) 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;

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- (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**."

Read a first, second and third time by the Municipal Council this 11th day of July, 2005.

Adopted by the Municipal Council of the City of Kelowna this day of , 2005.

Mayor

City Clerk