

CITY OF KELOWNA

BYLAW NO. 9587

Amendment No. 8 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 by deleting the definition of **"Sidewalk/Roadway Occupancy Permit"** from subsection 1.4.1 of **PART 1 – INTRODUCTION** and replacing it with the following:

"Sidewalk/Roadway Occupancy Permit" means a **sidewalk/roadway occupancy permit** issued under this Bylaw to permit placement of temporary tables and/or seating, or the vending of products from a licensed portable food service vending cart on a **sidewalk, roadway or lane**."

2. AND THAT "Traffic Bylaw No. 8120" be further amended by inserting the word **"lane"** into the first sentence of subsection 7.1.1 of **PART 7 – SIDEWALK/ROADWAY OCCUPANCY PERMITS**, immediately before the words **"sidewalk, walkway, boulevard, or roadway"**.

3. AND THAT "Traffic Bylaw No. 8120" be further amended by inserting the following new paragraph at the end of subsection 7.1.1 of **PART 7 – SIDEWALK/ROADWAY OCCUPANCY PERMITS**:

"Any **permit** holder who is required to forfeit a security deposit shall be prohibited from applying for a future permit, and no application for a permit will be accepted from any other person for any establishment to which such a **permit** holder is connected, for a period of one year from the date of the forfeiture, and not until any outstanding amount has been reimbursed to the City with respect to the seizure and storage of property or equipment seized pursuant to this Bylaw."

4. AND THAT "Traffic Bylaw No. 8120" be further amended by inserting the following subsection in the appropriate location:

"7.1.5A 'Permit areas – lanes'. **Permits** for outdoor seating areas within a **lane** shall only be issued if use of the **lane** for such purpose does not restrict access by pedestrians along the **lane** to less than a 2.0 metre wide path, nor compromise access by delivery or emergency service vehicles to establishments along the **lane**. In all cases, the occupancy of the **permit** area must conform to the sight lines established in Section 2.2 of this Bylaw."

5. AND THAT "Traffic Bylaw No. 8120" be further amended by deleting subsection 7.1.7 of **PART 7 - SIDEWALK/ROADWAY OCCUPANCY PERMITS** and replacing it with the following:

"7.1.7 Permit Fee. An applicant for a **sidewalk/roadway occupancy permit** shall submit the required **permit** fee outlined on Schedule "A", prior to issuance of the **permit** or in accordance with an invoice received from the **City**."

6. AND THAT "Traffic Bylaw No. 8120" be further amended by adding the following subsection to **PART 7 - SIDEWALK/ROADWAY OCCUPANCY PERMITS**:

"7.1.13A Entertainment Within Permit Areas. Outdoor entertainment shall be restricted to live music with non-amplified instruments, and shall be permitted only until 11:00 p.m. on Fridays or Saturdays, or Sundays followed by a statutory holiday, and only until 10:00 p.m. on all other days."

7. AND THAT "Traffic Bylaw No. 8120" be further amended by deleting subsection 7.1.14 of **PART 7 - SIDEWALK/ROADWAY OCCUPANCY PERMITS** and replacing it with the following:

"7.1.14 Security Deposit. Prior to the issuance of a **sidewalk/roadway occupancy permit**, the applicant shall deposit with the **City**, a cash deposit or unconditional irrevocable letter or credit issued by a Canadian chartered bank or credit union in the amount listed on Schedule "A" of this Bylaw as security that the obligations imposed pursuant to the **permit** will be fulfilled and to reimburse the **City** for the cost of any damage to the **permit** area, or other **City** facilities as a result of the temporary occupancy. Failure to meet the obligations of the **permit**, any actions that result in cancellation of the **permit**, or damage as a result of the temporary occupancy, shall result in forfeit of the security deposit"

8. AND THAT "Traffic Bylaw No. 8120" be further amended by adding the following subsection to **PART 7 - SIDEWALK/ROADWAY OCCUPANCY PERMITS**:

"7.1.14A Cancellation of Permit. A **permit** may be cancelled for any breach of the provisions of this bylaw or of the Terms of Reference of the Sidewalk Seating Program or Sidewalk Café Extension Program, as approved by **Council** from time to time, including but not limited to non-payment of required fees. Prior to cancellation, the **permit** holder shall be notified in writing of the pending cancellation and given a specified period of time to comply with the bylaw or Terms of Reference. In the instance where the breach is related to insurance requirements the subject seating area must immediately be taken out of use until the breach has been remedied to the satisfaction of the City's Risk Manager or designate. Upon expiration of the notification period, if the **permit** is still not in compliance, it shall be cancelled and the **permit** holder shall have three further business days to remove any tables and chairs and any associated structure(s). The **City** shall remove, at the permit holder's cost, any property or equipment left in the **permit** area thereafter.

9. AND THAT "Traffic Bylaw No. 8120" be further amended by adding the following subsection to **PART 7 – SIDEWALK/ROADWAY OCCUPANCY PERMITS**:

"7.1.18" Physical Changes to Existing Outdoor Seating Area. Any **permit** holder proposing physical changes to an existing outdoor seating area must re-apply to the **City**. The re-application must include submission of those items noted in subsection 7.1.3 of this bylaw describing the proposed changes, as well as a \$50.00 **permit** change fee. An updated risk assessment, pursuant to subsection 7.1.3A of this bylaw, and updated proof of insurance pursuant to subsection 7.1.15 of this bylaw, shall be required unless the proposed changes are inconsequential.

10. AND THAT "Traffic Bylaw No. 8120" be further amended by deleting the heading **Sidewalk/Roadway Occupancy Permit Fee**: from the portion of Schedule "A" entitled **PART 7 – SIDEWALK/ROADWAY OCCUPANCY PERMITS** and replacing it with the following:

"**Sidewalk/Roadway Occupancy Permit Fee** (to be prorated for the month in which the **permit** is granted and for the month in which the **permit** is cancelled or expires, where applicable):"

Bylaw 9587 Page 3

11. This bylaw shall come into full force and effect and be binding on all persons as and from the date of adoption.

12. This bylaw may be cited for all purposes as 'Bylaw No. 9587, being Amendment No. 8 to Traffic Bylaw No. 8120'.

Read a first, second and third time by the Municipal Council this 8th day of January, 2007.

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

Mayor

City Clerk