

City of Charlottetown
COVID 19 Temporary Patio Program Bylaw
Bylaw # 2020-CTP-01

BE IT ENACTED by the Council of the City of Charlottetown as follows:

1. Title

- 1.1. This bylaw shall be known as, and may be cited as, the “COVID 19 Temporary Patio Program Bylaw”

2. Purpose

- 2.1. The purpose of this bylaw is to establish temporary placement of outdoor patios for the City of Charlottetown.

3. Authority

- 3.1. Section 180 (c) of the *Municipal Government Act* R.S.P.E.I. 1988, Cap.M12.1., provides that a municipality may pass bylaws and provide services regarding businesses, business activities and persons engaged in business, including but not limited to the regulation and prohibition of business and business activities.

4. Definitions

Unless the context otherwise requires, in this Bylaw:

- 4.1. "Abutting Retailer" means, for the purposes of this bylaw, a person who carries on restaurant or café business and includes a business that holds a dining room licence pursuant to the Liquor Control Act of the Province (R.S.P.E.I. 1974, Cap. L-17), from a permanent place of business abutting a sidewalk in the City and pays business taxes to the City or is a tenant of the building for which taxes are paid to the City.
- 4.2. "Abutting Retailer – Space(s)" means the parking spaces, available for consideration of applications for the installation temporary patios in the area approved under section 4.2.
- 4.3. "Chief Administrative Officer" or "CAO" means the administrative head of a municipality as appointed by Council under clause 86.(2)(c) of the *Municipal Government Act*.
- 4.4. "City" means the City of Charlottetown, a body corporate, duly incorporated under the laws of the Province of Prince Edward Island and includes the area contained within the boundaries of the City of Charlottetown where the context so requires.
- 4.5. "Council" means the Mayor and other members of the Council of the municipality.
- 4.6. "Downtown Core Area" means the area:
-BOUNDED on the North by Euston Street;

- ON the East by Prince Street;
- ON the South by the Northern boundary of the Hillsborough Harbour; and
- ON the West by the Eastern boundary of Pownal Street;

- 4.7. "Goods" means food and/or beverages.
- 4.8. "Permit" means the authorization given to operate a temporary patio.
- 4.9. "Person" means a natural person, or a body corporate, and includes a partnership, a group of persons acting in concert or an association.
- 4.10. "Residential Street" means a street within the City of Charlottetown which is not located within the downtown core area.
- 4.11. "Selling" includes offering for sale and soliciting orders for the sale of goods.
- 4.12. "Sidewalk" means the portion of a street set aside for the use of pedestrians whether or not the surface is covered with gravel, concrete, asphalt, or other type of paving.
- 4.13. "Street" means any street within the boundaries of the City of Charlottetown and includes a lane, a bridge and a sidewalk.

5. General Provisions

- 5.1. No person shall park, place or permit to be parked or placed on any street, park or public place within the City any vehicle, mobile canteen, stand, van, trailer, push cart or combined unit of vehicle and trailer for the purposes of selling goods of any description except as permitted by this Bylaw.
- 5.2. No person shall expose for sale on, or sell any goods from any street, park, or public place within the City except as permitted by this Bylaw.
- 5.3. No person shall operate outside the approved hours of 8:00 AM to 12:00 midnight;
- 5.4. Every space for which a permit is issued shall require the permit holder to construct a metal fence around the site in accordance with the designs contained in Schedule "B".

6. Administration

- 6.1. This Bylaw shall be administered and enforced by a Licensing Inspector and by so many Deputy Licensing Inspectors as Council may appoint from time to time. A Deputy Licensing Inspector appointed by Council under this Bylaw shall carry out such functions and duties as may be assigned to him by the Licensing Inspector which may include carrying on the duties of the Licensing Inspector in his absence.
- 6.2. An abutting retailer, not licensed under the provisions of the Street Vendors Bylaw, may make application to occupy a parking space(s) that abut their business, in the downtown core area under the *COVID 19 Temporary Patio Bylaw*.

- 6.3. An application for a temporary patio license under this Bylaw shall be in the form prescribed in the temporary application and information guide attached as Schedules "A" and "B", which shall contain: by the Licensing Inspector and shall include:
- (a) The name of the street upon which the retailer's permanent place of business abuts;
 - (b) The name, home and business address and telephone number of the applicant;
 - (c) A description of the goods which the applicant intends to sell;
 - (d) A full description, sketch or artist's concept, of proposed patio;
 - (e) Parking space configuration;
 - (f) Operating hours; and
 - (g) Such other information as the Licensing Inspector may require.
- 6.4 All applications for temporary patios, once approved shall remain in effect until October 31st, 2021.
- 6.5 No approval shall be issued pursuant to this Bylaw unless:
- (a) The temporary patio application has been completed in full as prescribed in Schedules "A" and "B";
 - (b) A certified copy of a public liability insurance policy in a form and in an amount established and described in Schedule "A" annexed hereto which has been approved by resolution", naming the City as an additional named insured has been provided to the Licensing Inspector;
 - (c) A certificate of insurance in respect of such insurance policy providing that such insurance policy cannot be cancelled or terminated without sufficient prior notice has been provided to the Licensing Inspector;
 - (d) A Hold Harmless Agreement has been completed and signed for any license issued to operate on City Property. Which stipulates the applicant agrees to save harmless the City of Charlottetown, from and against any and all claims, including, without limitation, all claims for death, bodily injury or property damage, arising from any act or omission of the vendor or any assignee, agent, contractor, servant, employee, invitee or licensee of the vendor and from and against all costs, counsel fees, expenses and liabilities incurred in connection with any such claim or any action or proceeding brought thereon related to the event;
 - (e) Any federal, provincial or municipal permit, certificate, authority, license or other document of qualification required by the applicant in order to carry

on his intended business, including any permit required under the Public Health Act R.S.P.E.I. 1979, Cap. P-29.1 as amended from time to time, has been obtained.

- 6.6 The permit fee prescribed in Schedule “C” to this Bylaw has been paid.
- 6.7 Unless otherwise provided in this Bylaw, if an applicant has complied with all the conditions of this Bylaw for the issuance of the permit sought by him, the Licensing Inspector shall issue that permit to the applicant.

7. Licensing Suspension

- 7.1 Subject to an appeal to Council, a license or permit issued under this Bylaw may be suspended or revoked by the Licensing Inspector:
 - (a) For violation of this Bylaw;
 - (b) For violation of any other Bylaw of the City;
 - (c) For violation of any provincial or municipal health standards;
 - (d) For violation of the Highway Traffic Act R.S.P.E.I. 1974 Cap. H-6;
 - (e) For violation of any federal, provincial or municipal laws or regulations governing business practices;
 - (f) Breach by the permit holder of any agreement entered into by him and the City; or
 - (g) On such other grounds as in the opinion of the Licensing Inspector are just and reasonable.
- 7.2 Upon a permit being suspended or revoked the Licensing Inspector shall notify the permit holder thereof by delivering a notice to him personally or by mailing a double registered letter to the address shown on his license and after that notice has been delivered the licensee shall not carry on his business until a new license is issued or his suspended license is reinstated.

8. Appeal

- 8.1. Any person who has been refused a permit or whose permit has been suspended or revoked by the Licensing Inspector may appeal such refusal, suspension or revocation to Council.

- 8.2. An appeal to Council shall be in writing, shall be filed with the City Administrator within 15 days of the receipt by the permit holder of notice of the refusal, suspension or revocation as provided by Subsection 8.1 of this Bylaw and shall clearly state the grounds for the appeal.
- 8.3. The Council shall hear such appeals at such time and place as it may determine and, upon such an appeal, Council may confirm the refusal, suspension or revocation by the License Inspector or may direct the License Inspector to issue or re-instate the license.

9. Penalty

- 9.1. A person who violates or fails to comply with the provisions of this Bylaw is guilty of an offence and is liable on summary conviction to a fine of not less than \$100 and not more than \$500 and in default of payment to imprisonment for a period not exceeding 30 days. Each day a person so operates shall comprise a separate offence.
- 9.2. Where a person is carrying on business without a permit required by this Bylaw, or from a space other than the space allocated to him and specified in a permit issued under this Bylaw, in addition to any other remedy or penalty imposed by this Bylaw.
- 9.3. Where a person is carrying on a business in contravention of this Bylaw, then in addition to any other remedy or penalty imposed by this Bylaw the City may, in all such cases, apply to the Supreme Court of Prince Edward Island for an injunction or other order prohibiting or restraining that person from contravening this Bylaw.

10. Other Provisions

- 10.1 A person holding a permit under this Bylaw shall permit employees of the City and employees of any public utility to enter upon any portion of any street which has been allocated to him under this Bylaw and which he is permitted to use for the purpose of installing, maintaining or repairing any street or part thereof or any pipes, drains, cables, wires, poles or other installations.
- 10.2 Except as otherwise specifically provided in this Bylaw or any other Bylaw of the City, nothing in this Bylaw relieves any person with a permit under this Bylaw from complying with all other applicable laws.
- 10.3 Where the provisions of this Bylaw conflict with the provisions of any other Bylaw of the City, the provisions of this Bylaw shall prevail.

11 Effective Date

- 11.1 This Covid 19 Temporary Patio Program Bylaw, Bylaw# 2020-CTP-01 shall be effective on the date of approval and adoption below.

First Reading:

This Covid 19 Temporary Patio Program Bylaw, Bylaw# 2020-CTP-01, was read a first time and approved by a majority of members present at the Council meeting held on the _____ day of _____, 2020.

Second Reading:

This Covid 19 Temporary Patio Program Bylaw, Bylaw# 2020-CTP-01, was read a second time and approved by a majority of members present at the Council meeting held on the ___ day of _____, 2020.

Approval and Adoption by Council:

This Covid 19 Temporary Patio Program Bylaw, Bylaw# 2020-CTP-01, was adopted by a majority of Council members present at the Council meeting held on the _____ day of _____, 2020.

12. Witness the corporate seal of the City of Charlottetown

Mayor

Chief Administrative Officer

This Covid 19 Temporary Patio Program Bylaw, Bylaw# 2020-CTP-01 adopted by the Council of the City of Charlottetown on the _____ of _____ is certified to be a true copy.

Chief Administrative Officer

Date

SCHEDULE "A"

APPLICATION FOR TEMPORARY PATIO PROGRAM BYLAW

The City of Charlottetown requires that all applicants review and complete the following for consideration and approval with the Temporary Patio Program.

Business Name & Address:	
Type of Business: <input type="checkbox"/> Licensed Restaurant <input type="checkbox"/> Un-Licensed Restaurant <input type="checkbox"/> Coffee Shop / Café	
Applicant:	
Mailing Address & Postal Code:	
Telephone #(day):	Telephone #(night):
Cell:	Fax:
Email Address:	
Description of Goods Being Offered for Sale:	
Parking Space Location Requested (civic address) <input type="checkbox"/> Parallel Parking Space <input type="checkbox"/> Angle Parking Space	
Operating Hours - Start:	Operating Hours - Closing:

ATTACHMENTS - Check all that apply:

Photographs/Artist Conception of:	
Site Plan of Selected Location:	Attached <input type="checkbox"/>
Certificate of Insurance	Attached <input type="checkbox"/>
Hold Harmless Agreement	Attached <input type="checkbox"/>

The applicant acknowledges that he/she has read the Temporary Patio Program Bylaw in its entirety, fully understands the terms and conditions as outlined and has fully disclosed all details and components related to applications for the program approval.

Applicant Name:	Date:
Applicant Signature:	

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HOLD HARMLESS AGREEMENT

_____(Name of Applicant) shall indemnify and hold the City of Charlottetown and the Charlottetown Police Services harmless from and against all liability, loss, claims, demands, costs, and expenses, including reasonable legal fees, occasioned wholly or in part by any negligence or acts or omissions by the above named, their officers, agents, employees, or others for whom they are responsible at law arising out of any cause whatsoever, either direct or indirect, through its use and/or operation of City property in connection with

(Temporary Patio Program Business)

excluding only such liability as may solely rise out of the negligence of the City and/or Police Services, its employees, officers, or agents.

INSURANCE CERTIFICATE

During the period of the term of this permit agreement with,

(Temporary Patio Program Business & Applicant)

shall maintain a policy of public liability and property damage insurance, including liquor liability coverage if applicable, in the amount of Two Million Dollars (\$2,000,000) and containing endorsements showing "The Corporation of the City of Charlottetown" as an additional insured and having a cross-liability clause, in form satisfactory to the City of Charlottetown. Proof of insurance shall be made available to the City of Charlottetown with this application.

Name of Applicant – must be incorporated or an individual:	
Signature of Applicant or Authorized Representative:	Signature of Witness:
Print Name and Title:	Print Name of Witness:
Date	

SCHEDULE "B"

COVID 19 TEMPORARY PATIO BYLAW INFORMATION GUIDE

Introduction

The COVID-19 pandemic has inflicted significant negative economic impacts to a broad spectrum of commerce including, retailers, restaurants, businesses, tourism operators, etc.

While many businesses have been impacted, restaurants have been one of the most immediate and hardest hit sectors, and as such business operators are struggling to survive with many limited to takeout offerings and attempting to make it through the pandemic with limited capacity.

Small businesses like restaurants are vital to the fabric and character of the downtown core of Charlottetown and are key contributors to our sense of community and economic health through generation of jobs and other economic spin-offs.

The City of Charlottetown has identified as priorities the following:

- Where it falls under the domain of the City, facilitate economic recovery with speed, flexibility, and nimbleness by examining area of assistance and making necessary regulatory changes
- Support businesses in maintaining health measures and physical gathering restrictions
- Review and improve on existing patio regulations and programs
- Demonstrating to our business community, specifically hard hit restaurants, that supporting them is a priority for Council.
- Supporting staff in prioritizing this work.
- Providing pre-prepared templates/types of patios to improve speed.
- Recognizing that time is of the essence to get restaurant businesses supported and open in a way they can sustain themselves and not go under.
- Meeting the Council priority to protect and build our economy.

Patio Options

At present, the Temporary Patio Program will consider patio applications that fit two options on City property: small patio or curbside patio (on-street parking spaces). The following pages will guide you through the description and specific requirements for each of these patio options.

Applicants must meet all of the requirements of the options they're applying for. These pre-approved requirements will ensure that patio applications can be efficiently and quickly permitted

and implemented. General rule of thumb: the simpler the patio proposal, the easier it is to approve and implement.

Once approved, the program will be available until October 31st, 2021. Permits issued are non-renewable. If applicants meet all requirements, the permits may be issued within two business days of application submission.

Please carefully read through the patio details and requirements to ensure you are prepared for our application and to avoid any potential delays.


Patio Options #1 - Small Patio


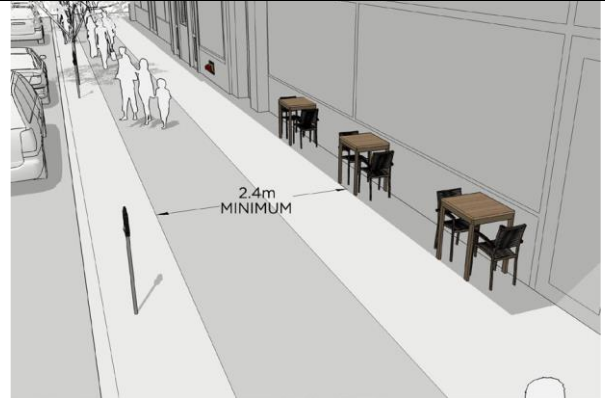

Description: Small patios are located directly against the business property, either in the front or on the side where there is suitable public space. Small patios are not enclosed by railings.

Liquor: Businesses may not serve liquor in small patios.

Requirements: Furniture may not be stored on the patio overnight. Businesses must take in furniture at closing hour each day. For accessibility, table and seating options that accommodate people of all abilities must be available. Additionally, furniture must not obstruct entrances and exits.

Small Patio Clearance Requirements

<p>A. Furniture must maintain at minimum 0.5m clearance from centre of fire department connection.</p>	 <p>The diagram illustrates a fire department connection (FDC) on a wall, marked with a yellow sign that reads 'BUILDING STANDPIPE' and 'FIRE DEPT. CONNECTION'. A table and chair are positioned on the patio. A dashed line with arrows at both ends indicates a '0.5m MINIMUM clearance' from the center of the FDC to the furniture.</p>
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<p>B. Benches must maintain at minimum 2.9m clearance from utility strip. If there's no utility strip, measure to the nearest sidewalk obstruction (e.g. edge of tree grate).</p>	 <p>A perspective diagram of a sidewalk. On the right side, there is a utility strip. A wooden bench is placed on the sidewalk. A double-headed arrow indicates the distance from the utility strip to the bench, labeled "2.9m MINIMUM".</p>
<p>C. Patio furniture must maintain at minimum 2.4m clearance from utility strip. If there's no utility strip, measure to the nearest sidewalk obstruction (e.g. edge of tree grate).</p>	 <p>A perspective diagram of a sidewalk. On the right side, there is a utility strip. Several small tables and chairs are placed on the sidewalk. A double-headed arrow indicates the distance from the utility strip to the furniture, labeled "2.4m MINIMUM".</p>
<p>D. Example of clearance measurement from furniture to tree grate.</p>	 <p>A perspective diagram of a sidewalk. On the left side, there is a tree grate. A person in a wheelchair is shown moving along the sidewalk. A double-headed arrow indicates the distance from the tree grate to a wooden bench on the right, labeled "Clearance measurement".</p>

Patio Option #2 – Curbside

Description Curbside patios are fully detached from buildings and occupy on-street parking spaces. They are set back from the sidewalk, segregated from surrounding parking spaces, and enclosed by railings or fencing. These patios may be in front of the business or on the side, and can only be placed in parking spaces without parking restrictions (bus lanes, disabled, etc.).


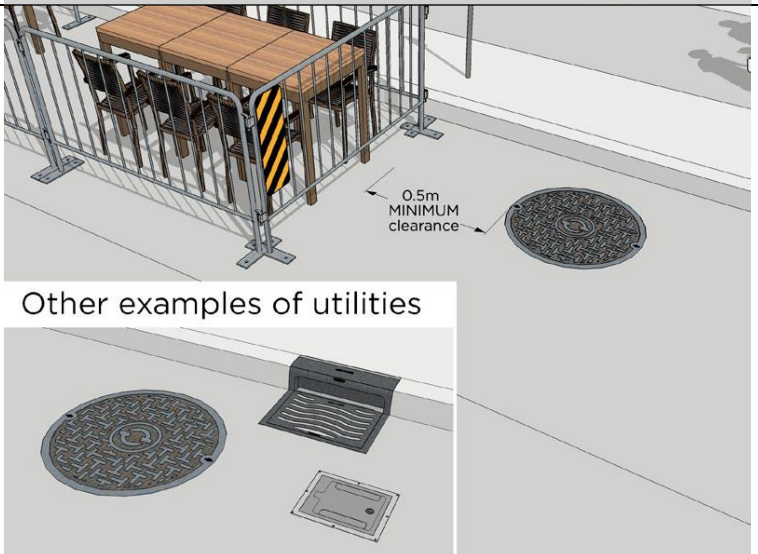
Liquor: Businesses may serve liquor in curbside patios if they hold a valid dining room license with the PEILCC.

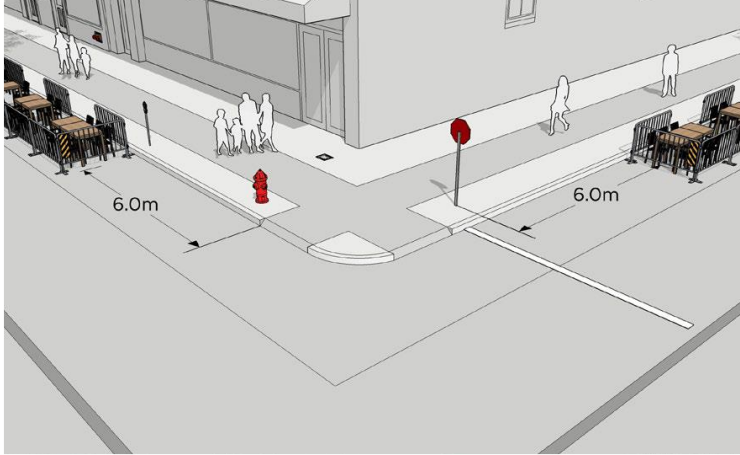
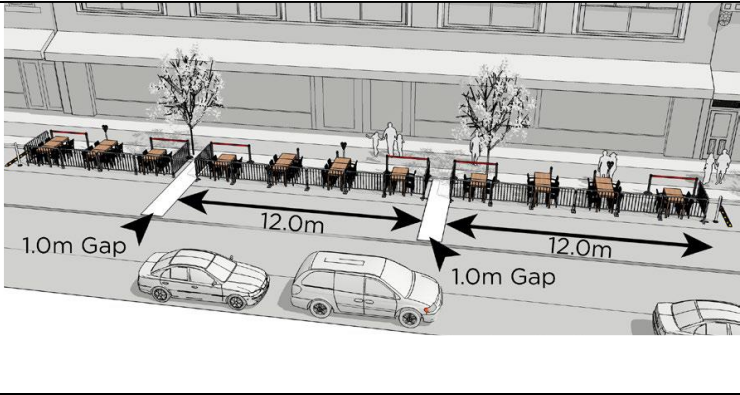
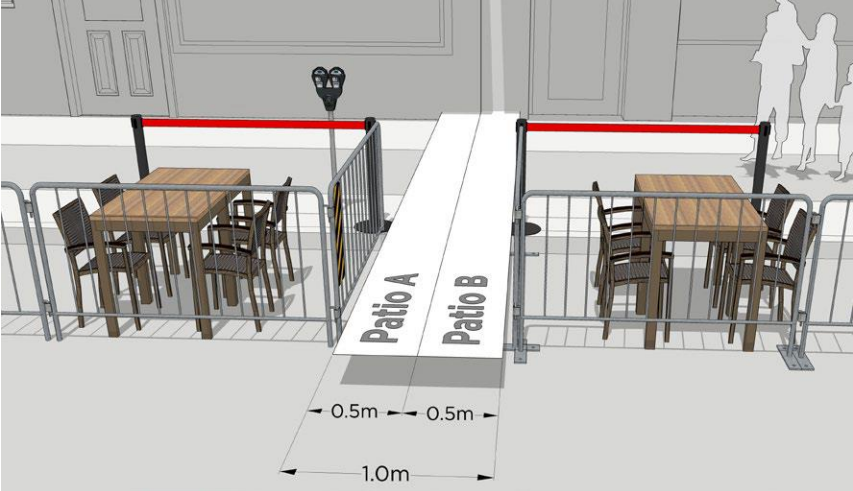
Requirements: To ensure safety, railings/fencing must be provided and maintained by the business at their cost.

For accessibility, table and seating options that accommodate people of all abilities must be available, and access ramps must be available wherever there may changes in grade (e.g. a step down from the curb).

Ramps must be provided and maintained by the business.

Furniture may be stored overnight on the patios.

<p>A. Parameter of the patio must maintain at minimum 5.0m clearance from fire hydrants, and 0.5m clearance from fire department connections.</p>	
<p>B. Parameter of the patio must maintain at minimum 0.5m clearance from utilities (such as maintenance holes and storm drains).</p>	

<p>C. Curbside patios near corners must maintain at minimum 6.0m clearance from the edge of the sidewalk or stop sign/traffic control</p>	
<p>D. Curbside patio must maintain at minimum 1.0m clearance every two parking spaces (approx. 12m). A business with a curbside patio must offset the beginning and end of the patio 0.5m from the property line in order to provide 1.0m total clear space.</p>	
	

GENERAL REQUIREMENTS

In addition to the requirements specific to the patio options, please review the requirements below to ensure your application is in compliance.

Applications must not have:

- Construction (new or of any kind)
- Utility connections of any kind (electrical, sprinkler, gas, heaters)
- Accessory structures (decking, tents, overhead canopy, platforms, enclosures) or heaters
- Increased occupancy of any kind

Applicants must ensure:

- Compliance with all applicable orders from the Provincial Health Officer (including occupancy, seating configurations, gathering restrictions, etc.). Please review the most up-to-date information through the Office of the Chief Provincial Health Officer:
- Valid PEILCC liquor licences (for patio options that allow liquor), and that railings are installed and maintained for liquor service areas.
- Proposed patios are accessible to people of all abilities (ramps and seating options).
- Railings must have an open appearance with an approximate height of 1m. Weights may be used to hold temporary railings in place within the patio area. The weights must not protrude into the roadway (curbside patios) or the sidewalk (large patios).
- Planters can substitute railings for delineation.
- Patio access cannot be through business kitchen or employee-only areas.
- Proof of liability insurance coverage.

SCHEDULE "C"

COVID 19 TEMPORARY PATIO BYLAW

LICENSE FEE PER YEAR

1. Restaurant / Café – Abutting Retailer or Lounge \$300.00 per parking space

"This document is an office consolidation of this Bylaw (amending bylaw adopted 08-March-2021). It is intended for information and reference purposes only. This document is not the official version of the Bylaw. Where accuracy is critical, please consult official sources. If you find any errors or omissions in this consolidation, please contact the Records Management Clerk