PATIO REGULATION BYLAW
NO. 23-035

This consolidation is a copy of a bylaw
consolidated under the authority of
section 139 of the *Community Charter*.
(Consolidated on September 24, 2026
up to Bylaw No. 26-073)

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authority of the Corporate Administrator
of the Corporation of the City of Victoria.

NO. 23-035

PATIO REGULATION BYLAW

A BYLAW OF THE CITY OF VICTORIA

(Consolidated to include Bylaws No. 23-052, 23-108, 24-043, 25-024 and 26-073)

The purpose of this Bylaw is to regulate and prohibit the placement and operation of patios within highways and certain parks and other public places within the City of Victoria.

Under its statutory powers, including section 14 of the *Victoria City Act, 1919* and sections 8(3), 15, 19, 35, 36, 38, 154 and 194 of the *Community Charter*, the Municipal Council of the Corporation of the City of Victoria in an open meeting enacts the following provisions:

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PART 1 - INTRODUCTION

Title

1 This Bylaw may be cited for all purposes as the “Patio Regulation Bylaw”.

Definitions

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2 For the purposes of this Bylaw:

“accessibility feature” means any structure, thing, furniture, or spatial arrangement that improves the accessibility of a patio to persons with disabilities, and which is consistent with CSA Standard B651-18 *Accessible design for the built environment* or with any applicable accessibility standards established under the *Accessible British Columbia Act*, S.C.B. 2021 c. 19 as amended from time to time;

“annual licence” means a licence with a term of June 1 to December 31 for the year 2023, or a licence with a twelve-month term of January 1 to December 31 for any subsequent year;

“applicant” means an applicant for a licence, or an applicant for a licence renewal as the context requires;

“application” means an application for a licence, an application to amend a licence, or an application for a licence renewal as the context requires;

"boulevard" means:

(a) on a street with curbs, the unpaved portion of street between the outside curb and adjoining property line; and

(b) on a street without a curb, the unpaved portion of street between the edge of the roadway and the adjoining property line.

"bylaw officer" means a person designated as a bylaw officer under the Ticket Bylaw;

"complex patio" means semi-permanent structures, furniture, other property or things constructed or placed on a street or a sidewalk for the queuing, seating and serving of customers as an extension of a food vending establishment, and which are not removed daily;

"Director" means the Director of Engineering for the City of Victoria, or their authorized delegate;

"enclosed patio" means a complex patio which has both a roof and walls, regardless of the materials used to construct the roof and walls;

"expanded footprint" means a patio area or portion of a patio area that is licenced to a nearby food vending establishment, but which is not adjacent to or in front of that food vending establishment;

"licence" means a licence of occupation issued under this Bylaw for patio use;

"licensee" means the holder of a licence issued under this Bylaw or the former holder of a licence issued under this Bylaw as the context requires;

"liquor licence" means a licence issued under the *Liquor Control and Licensing Act* SCB 2015 c 19, as amended from time to time;

"patio" means simple patio, complex patio, and enclosed patio;

"patio area" means that portion of a roadside or sidewalk that is designated by a licence for patio use;

"roadside" means that portion of street which abuts a sidewalk or a property line, and which is designated as a parking space or loading zone under the Streets and Traffic Bylaw; or is the subject of an order under either section 9(r) or 9(s) of the Streets and Traffic Bylaw;

"roadway" means the portion of the street that is improved, designed or ordinarily used for vehicular traffic, but does not include the shoulder, and if a highway includes 2 or more separate roadways, the term "roadway" refers to any one roadway separately and not to all of them collectively;

"seasonal licence" means a licence for a term of six months;

24-043 **"sidewalk"** means:

(a) sidewalk, as defined in the Streets and Traffic Bylaw;

(b) Centennial Square;

(c) Bastion Square;

(d) Fernwood Square, shown on Schedule A;

(e) that portion of Millie's Lane outlined on Schedule A;

(f) West Song Walkway, shown on Schedule A; and

(g) that portion of Mary Street Park outlined on Schedule A;

"simple patio" means moveable furniture, other moveable property or things for the seating and serving of customers as an extension of a food vending establishment, which are placed on a sidewalk and removed daily, and may include semi-permanent accessibility features that are not removed daily;

"street" has the same meaning as in the Streets and Traffic Bylaw;

PART 2 - LICENCE REQUIREMENTS

Licence Required

23-108 3 A person may not place, construct or keep or cause or permit to be placed, constructed or kept a patio on a street or sidewalk except under licence as provided in this Bylaw.

4 (1) An owner in possession or an occupant of property may establish, operate and maintain a patio if:

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(a) that owner or occupant is lawfully operating a food vending establishment at the property that is adjacent to and in front of the patio area, or has obtained the approval of the Director under 6(5) to operate an expanded footprint;

(b) that owner or occupant possesses a valid licence; and

(c) that owner or occupant places, constructs and maintains the patio in strict accordance with the terms of the licence and this Bylaw.

PART 3 – LICENCE APPLICATION

Application

5 (1) To obtain a licence, an applicant must apply to the Director in the form prescribed by the Director, and must

(a) provide all information required by the form prescribed by the Director;

(b) provide the plans and details of the proposed patio showing:

(i) the area to be occupied, and

(ii) the location and type of all furniture, structures or things which shall be placed within the area to be occupied; and

(c) submit a noise assessment if requested by the Director.

23-108 (2) The Director may prescribe different application forms for different types of patios, licences, and renewal applications.

Grant of licence

24-043 *23-108* 6 (1) The Director may issue a licence if the Director is satisfied that:

(a) the applicant

(i) has paid the fees required pursuant to section 17;

(ii) has fully completed the application form and provided all information required pursuant to section 5;

(iii) holds a valid business licence issued by the City;

(iv) subject to subsection (3), has obtained all additional applicable federal, provincial and municipal permits or licences;

(v) has provided proof of the insurance required in section 9(1)(s);

(vi) has provided, upon the request of and to the satisfaction of the Director, confirmation in a form acceptable to the Director, from an appropriate professional that the patio area and any or all structures, furniture and things to be placed on the patio area under the proposed licence would be safe, accessible, and suitable for their intended use as described in the application for the licence;

(b) and the patio will not

(i) be inaccessible to persons with disabilities;

(ii) be inconsistent with any applicable accessibility standards established under the *Accessible British Columbia Act*, S.C.B. 2021 c. 19;

(iii) unreasonably obstruct or interfere with vehicle, bicycle or pedestrian traffic or vehicle, bicycle or pedestrian safety;

(iv) unreasonably obstruct or interfere with a fire hydrant, fire access or exit, or another safety feature or requirement of an adjoining property;

(v) unreasonably obstruct or interfere with the ability of the City or any permitted third party utility company to construct, install, repair or maintain a municipal work, service, utility or other improvement;

(vi) unreasonably interfere with the public's use and enjoyment of the sidewalk, roadside or adjoining roadway;

(vii) unreasonably interrupt the sightlines along the sidewalk, roadside or roadway;

(viii) in the case of a patio located in a roadside, result in insufficient parking or loading space within 200 metres of the patio;

(ix) present a risk of harm to the health or safety of the public;

(x) contain a roof or any form of overhead covering other than those described in subsection (7);

(xi) contain a wall or walls;

(xii) contain a fence other than a fence described in subsection (6);

(xiii) contain a security gate that is higher than the highest point of the fence or that is not, in the opinion of the Director, integrated with the fence design and materials;

(xiv) contain furniture, structures or things which cannot be easily removed;

(xv) cause damage to the sidewalk, roadside, or any adjacent boulevard;

(xvi) result in the removal of a tree or damage a tree, whether the tree is a protected tree or not, as damage is defined in section 4(5) of the Tree Protection Bylaw, with the necessary changes; or

(xvii) contravene the provisions of this or any other bylaw.

(2) In addition to the provisions set out in subsection (1), the Director may only issue a licence for a patio located in Centennial Square, Bastion Square, Fernwood Square or West Song Walkway if the Director of Parks, Recreation and Facilities, having considered the other permitted uses and planned activities for that location, has consented to the issuance of the licence.

(3) An applicant is not required to hold a liquor licence that is applicable to the proposed patio prior to the issuance of a licence under this Bylaw.

(4) The issuance of a licence, the acceptance of plans and other supporting documents submitted for a licence, and the making of inspections by the City shall not relieve the licensee from full responsibility for complying with this Bylaw.

(5) The Director may issue a licence for a patio area that includes an expanded footprint in the following locations if, in the Director's opinion, the expanded footprint would encourage street or other public place animation, support seasonal activities, or otherwise be in the public interest:

(a) Centennial Square;

(b) Bastion Square;

(c) Fernwood Square, shown on Schedule A;

(d) Millie's Lane, outlined on Schedule A;

(e) West Song Walkway, shown Schedule A; and

(f) a portion of a street subject to an order under section 9(r) or 9(s) of the Streets and Traffic Bylaw.

(6) Fencing at a patio area may be:

(a) Constructed of transparent material up to a maximum height of 1.6 meters;

(b) Constructed of a solid or opaque material up to a maximum height of:

(i) 1.6 metres for up to 25% of its length, and

(ii) 1.0 metres for at least 75% of its length.

(7) Allowable overhead covering for a patio is limited to the following:

(a) structures that are the subject of a separate authorization from the City, which authorization must be produced by the applicant if it is not registered under the *Land Title Act*, R.S.B.C. 1996, c. 250;

(b) free standing weather protection units which:

(i) are pre-fabricated;

(ii) conform with CAN/ULC – S109-03 "Flame Tests of Flame-Resistant Fabrics and Films";

(iii) can be immediately removed in the event of an emergency; and

(iv) can be closed or removed when the patio is not in operation.

Renewal of Licence

23-108 7 (1) The Director may renew an annual licence or a seasonal licence if the Director is satisfied that none of the circumstances set out in section 14(2) or section 14(3) apply.

(2) The Director may require that an applicant provide information to support the Director's assessment of whether any of the circumstances set out in sections 14(2)(a)(b) or (e) apply.

Licence Amendment

8 (1) A licensee may apply to the Director to amend its licence by applying to the Director in the form prescribed by the Director, and must:

(a) provide all information required by the form prescribed by the Director;

(b) provide the plans and details of the proposed patio showing:

(i) the area to be occupied; and

(ii) the location and type of all furniture, structures or things which shall be placed within the area to be occupied.

(2) The Director may issue an amended licence upon application if the Director is satisfied of the factors set out in sections 6(1) and 6(2).

23-108 (3) The Director may issue an amended licence on their own initiative, if after notifying the licensee of the proposed amendment and providing the licensee with an opportunity to be heard, the Director is satisfied that:

(a) any of the circumstances set out in section 16(1)(h)(iii) to (vi) or 16(1)(i) exist;

(b) cancellation is not required to address the circumstance or circumstances referred to in subsection 8(3)(a); and

(c) the amended licence addresses the circumstance or circumstances.

PART 4 - CONDITIONS OF LICENCE

General Conditions

23-108 9 (1) Every licence is subject to the following conditions:

(a) the licensee

(i) assumes all risks, known and unknown, in relation to the patio and the portion of the street occupied by them and agrees to release and forever discharge the City, its elected and

appointed officials, employees, servants, contractors and agents from any and all claims, causes of action, suits, costs and expenses whatsoever, which it or its directors, officers, employees or agents may now or at any time have with respect to, related to, or arising out of the existence or operation of the patio; and

(ii) agrees to indemnify and save harmless the City, its elected and appointed officials, employees, servants, contractors and agents from and against any and all claims, causes of action, suits, damages, losses (including pure economic loss) costs and expenses which the City, its elected or appointed officials, employees, servants, contractors and agents may suffer or sustain as a result of, connected to or arising out of the grant of this licence, cancellation or amendment of this licence, or by any reason of or arising out of failure of the licensee to comply with the terms and conditions of the licence or this Bylaw;

(b) the licensee shall not serve liquor on the patio unless the application disclosed an intent to serve liquor and the licensee has obtained a liquor licence that applies to the patio;

(c) the licensee must affix to the patio a decal issued by the Director at the time the licence is issued or renewed, and write the licence number on the decal in such a way that it is clearly visible and legible;

(d) the licensee must place, construct and maintain the patio in strict accordance with plans, design, or other information provided by the application, in addition to the conditions on the licence;

(e) for the purpose of constructing, installing, repairing or maintaining any municipal work, service, utility or other improvement owned by the City or a permitted third party utility company, the licensee must

(i) allow the Director and the employees or agents of the City and of any permitted third party utility company to enter the portion of the sidewalk or roadside designated in the licence, and

(ii) when requested by the Director, remove the whole or part of the patio within 48 hours, or immediately in the event of an emergency, for regularly scheduled utility or service installation, maintenance or repair;

(f) the licensee must ,when notified in writing sent by the Director to the licensee at least 28 days in advance of an identified public event approved by the City through a special event permit, remove the whole or part of the patio identified by the Director for the duration specified by the Director as required to accommodate that public event;

(g) where a licensee neglects, refuses or fails to remove the whole or part of a patio under subsection (1)(e) or (f), or fails to do so within the time specified under that subsection, the Director may cause any part of the patio to be removed for the purposes in that clause and may charge the costs of the removal to the licensee;

(h) at all times and at the licensee's own expense, the licensee must keep and maintain the patio in safe and good repair, and in a clean, sanitary, attractive condition satisfactory to the Director, and must keep the sidewalk and street surrounding or adjacent to the patio free from papers, rubbish and debris of any kind;

(i) where a licensee neglects, refuses or fails to perform its obligations under subsection (1)(h), the Director may cause those obligations to be performed and may charge the costs of such performance to the licensee;

(j) the licensee must not open, retract, remove, lower or affix any part of the patio to any part of a street or sidewalk outside of a patio area;

(k) the licensee must not use a patio area for any purpose other than queuing, seating and serving customers;

(l) if the licence permits the storage, installation or operation of lighting, propane tanks, or portable heaters or other heating appliances, then the lighting, propane tanks portable heaters or other heating appliances must be certified by the Canadian Standards Association, and the storage, installation and operation of same must:

(i) conform to the standards established by the Canadian Standards Association and certified to the standards of Underwriters Laboratories of Canada;

(ii) be done in strict accordance with all Provincial safety regulations, the Fire Prevention and Regulation Bylaw, and the manufacturer's instructions; and

(iii) must not present a risk of harm to the health or safety of the public;

(m) if the licence permits the use of a free standing weather protection unit or units, then the free standing weather protection unit or units:

(i) must be closed or removed when the patio is not in operation;

(ii) must remain entirely within the patio area;

(iii) must be stored, installed and operated in accordance with the manufacturer's instructions, all Provincial safety regulations, and any applicable standards; and

(iv) must not present a risk of harm to the health or safety of the public;

(n) if the licence permits the use of a security gate, then the security gate must not prevent egress from the patio when the patio is in operation;

(o) where a licensee is required to remove any structures, other property or things pursuant to this Bylaw, the licensee must not make any claim against the City on account of such removal and must replace and restore the sidewalk or roadside to a safe and proper condition to the satisfaction of the Director;

(p) where a licensee or former licensee neglects, refuses or fails to cease occupation of the sidewalk or roadside or to restore the sidewalk or roadside as required pursuant to this Bylaw, or fails to do so within the time specified, section 24 applies and the Director may additionally cause the sidewalk or roadside to be restored to a safe and proper condition and may charge the costs of such restoration to the licensee;

(q) where the City has incurred costs as specified in paragraphs (h),(i) or (p), an invoice of the City setting out those costs shall be final and shall be due and payable within five days of the City sending the invoice to the licensee, and the City may recover any such costs from the licensee in any Court of competent jurisdiction as a debt owing by the licensee to the City;

(r) the Director, any person authorized by the Director, or any bylaw officer may at any reasonable time enter the patio for the purpose of ascertaining whether the provisions of this Bylaw are being complied with, and provided that the Director, authorized person or bylaw officer produces proper identification when asked, no person shall hinder, delay, or obstruct them;

(s) during the term of the licence

(i) the licensee must obtain and maintain in force commercial general liability insurance, in the minimum amount of $5 million per occurrence, and

(ii) the City must be added as an additional insured, together with a cross liability clause, to every policy of insurance required to be maintained under subparagraph (i) and the City must be provided with proof of such coverage prior to the issuance of a licence renewal, and at any subsequent time upon request of the Director or Director’s designate;

(t) the licensee must inform the Director immediately upon any of the circumstances set out in section 11(3) arising;

(u) the licensee must not lease or sublease any or all of the patio space to any other person;

(v) the licensee must not prune, cut, damage or remove any tree in or adjacent to the patio area;

(w) the licensee must ensure that the operation of the patio does not damage any adjacent boulevard.

Specific Conditions

23-108 10 (1) In addition to those conditions set out in section 9, the Director may grant a licence subject to such other conditions as the Director considers appropriate including but not limited to conditions regarding:

(a) hours of operation;

(b) minimum hours or days during which a licensee must carry on business at the patio;

(c) the incorporation of one or more accessibility features;

(d) the specific location of a structure, sign, thing, or accessibility feature;

(e) daily schedule for set up and removal;

(f) the removal or placement of a portable sign permitted under section 102A of the Streets and Traffic Bylaw;

(g) the use of lighting, propane tanks, or portable heaters or other heating appliances, including but not limited to conditions related to storage, location, type, and quantity, or whether these items can be used at all in the patio area;

(h) the use of loudspeakers, megaphones, sound systems, audiovisual equipment or other amplification equipment;

(i) traffic management;

(j) security;

(k) waste reduction and removal;

(l) tree protection, subject to section 10(2);

(m) management of water runoff;

(n) a fire safety plan;

(o) a maintenance plan; and

(p) temporary removal or alteration of patio area during a regularly scheduled public event authorized by the City through a special event permit.

(2) The Director must consult with the Director of Parks, Recreation and Facilities or their delegate regarding the need for and content of a licence condition related to tree protection before imposing such a condition.

No Assignment of Licence

11 (1) A licensee must not assign or transfer the permission for the use of the patio area as authorized in the licence without the prior written consent of the Director.

(2) Where the Director refuses to consent to assignment or transfer under subsection (1), the person who requested the assignment or transfer may appeal the Director's decision to Council, in which case the procedures outlined in section 16(4) apply with the necessary changes.

(3) For the purposes of this section 11, any of the following circumstances are deemed to result in an assignment or transfer of licence that requires the Director's prior written consent:

(a) the licensee assigns or transfers its licence to another person;

(b) a sale of all or substantially all of the assets of the licensee;

(c) changes to the directors, officers, or shareholders directly or indirectly holding 50% or more of the outstanding voting securities of the licensee;

(d) the licensee merges with, amalgamates with, or is acquired by another corporate entity; or

(e) there exists a plan of arrangement or any other transaction that results in a significant change to the operations of the licensee.

Patio Removal

23-108 12 (1) A licensee who holds a licence which permits semi-permanent structures, furniture or things must ensure that they are affixed in a manner which allows them to be completely removed, and the sidewalk or roadside restored, with minimal reasonable effort.

(2) The licensee must cease occupation of the patio area and at its own cost and expense, remove all structures, other property and things from the sidewalk or roadside and restore the sidewalk or roadside:

(a) in the case of an annual licence, within 30 calendar days of licence expiration, if the licence is not renewed,

(b) in the case of a seasonal licence, within 30 calendar days of the expiration of the licence term, whether or not the licence is renewed;

(c) immediately upon cancellation pursuant to section 16(7), or

(d) unless the licensee files a request for reconsideration under section 16(4), within 30 days of the date of a notice in writing from the Director of licence cancellation.

(3) For clarity, a licensee must immediately cease operation of a patio upon expiration of a license, except where an annual licence has been renewed and is in force.

Enclosed Patio

13 (1) Subject to section 33, a person may not place, construct or keep an enclosed patio.

PART 5 - REFUSAL AND CANCELLATION OF LICENCE

Refusal

23-108 14 (1) The Director may refuse to issue a licence to an applicant if the Director is satisfied that any of the following circumstances apply:

(a) the applicant has not provided all information required by the application form or otherwise under section 5;

(b) the applicant has not met the conditions to approve the application pursuant to sections 6(1) or 6(2);

(c) the application contains false or misleading information; or

(d) the applicant owes any debts to the City, or any fees or fines under any City bylaw that have not been paid.

(2) The Director may refuse to renew a licence if:

(a) any of the circumstances described in subsection (1) apply;

(b) if circumstances have changed since the licence was issued such that the applicant no longer meets the conditions to approve the application pursuant to sections 6(1) or 6(2);

(c) the applicant fails to provide any information required by the Director to support the Director’s assessment of whether paragraphs (a)(b) or (e) apply;

(d) if the applicant has not provided proof of insurance for the proposed renewal term; or

(e) if during previous terms of the licence the licensee failed to meet its obligations under this Bylaw or the conditions of the licence.

(3) The Director must refuse to renew a licence for an enclosed patio for any period of time after December 31, 2026.

Cancellation

23-108 15 (1) Subject to subsection (2), a licensee must cease operation of a patio and cease using the patio to queue, seat and serve customers within 24 hours of the Director's cancellation of a licence.

(2) If a licence has been cancelled by the Director for any reason other than that set out in section 16(1)(h)(i), then the licensee may resume operation of the patio upon submitting a request for reconsideration in accordance with section 16(4)(a), and may continue that operation until such time as Council makes a determination under section 16(4)(e).

23-108 16 (1) The Director may cancel a licence if the Director is satisfied that any of the following circumstances have occurred:

(a) the patio does not strictly adhere to the plans, design, or other information provided by the applicant in the application for which the licence was issued;

(b) the licensee fails to comply with a condition of the licence;

(c) the licensee has been convicted, within the preceding two years, of an offence under an Act or City bylaw in respect of the patio for which the licence is issued;

(d) the licensee has been deemed, under the *Community Charter*, or the *Offence Act* within the preceding two years, to have pleaded guilty to an offence referred to in subparagraph (c);

(e) the licensee has received a bylaw notice, within the preceding two years, for a contravention under a City bylaw in respect of the patio for which the licence was issued and for which an amount was due and payable to the City under the *Local Government Bylaw Notice Enforcement Act*;

(f) the licensee has received a bylaw notice, within the preceding two years, for a contravention under a City bylaw in respect of the patio for which the licence was issued and is deemed to have accepted liability for the contravention under the *Local Government Bylaw Notice Enforcement Act*;

(g) the licensee has ceased to comply with a City bylaw or has otherwise ceased to meet the lawful requirements to operate the patio for which the licence is issued;

(h) the continued operation of the patio would

(i) present a risk of harm to the health or safety of the public,

(ii) constitute a nuisance,

(iii) unreasonably obstruct or interfere with vehicle, pedestrian or bicycle traffic,

iv) unreasonably obstruct or interfere with a fire hydrant, fire access or exit, or another safety feature or requirement of an adjoining property,

(iv) unreasonably interfere with the ability of the City or any permitted third party utility company to construct, install, repair or maintain a municipal work, service, utility or other improvement,

(v) unreasonably interfere with the public's use or enjoyment of the sidewalk or the roadside or adjoining roadway,

(vi) unreasonably interfere with the sightlines along the sidewalk, roadside or roadway, or

(vii) cause damage to the sidewalk, roadside, roadway, adjacent boulevard or to a tree; or

(i) the patio area is required for the construction, installation, repair or maintenance of a municipal work, service, utility or other improvement.

(2) Before cancelling a licence pursuant to subsection (1), the Director must notify the licensee of the proposed cancellation and provide the licensee with an opportunity to be heard by the Director.

(3) If the Director cancels a licence pursuant to subsection (1):

(a) the licensee may apply to Council for reconsideration of the cancellation, and

(b) the Director must notify the licensee of the right for Council reconsideration pursuant to paragraph (a).

(4) When permitted pursuant to the provisions of this Bylaw, a person applying for reconsideration, by Council, of a decision of the Director must comply with the following procedures:

(a) the licensee must deliver written notice of the request for reconsideration to the City Clerk within 14 days of the decision, together with a written summary of the licensee's reasons for requesting the reconsideration;

(b) the City Clerk must place the request for reconsideration on the agenda of a meeting of City Council at which the matter can be dealt with conveniently, to be heard within 45 days after the request for reconsideration is received;

(c) the Council may adjourn the hearing of the reconsideration request from time to time;

(d) the licensee may attend the meeting of City Council at which the matter is to be considered, and at that meeting, may present oral and written submissions to the Council in support of the request for reconsideration; and

(e) after hearing from the licensee, and from the Director whose decision is the subject of the reconsideration request, the Council may:

(i) confirm the decision of the Director, or

(ii) rescind that decision and substitute in its place any other decision that the Council determines is appropriate.

(5) By resolution of its Council, the City may at any time cancel a licence issued under this Bylaw.

(6) Before cancelling a licence pursuant to subsection (5), Council for the City must provide the licensee with an opportunity to be heard by Council, and for that purpose must follow the hearing procedures outlined in subsection (4).

(7) The Director must cancel a licence if the Director is satisfied that the licensee is insolvent. For clarity, the process under subsections (1)-(4) does not apply to a cancellation under this subsection (7).

(8) For the purposes of subsection (7) a licensee is insolvent if it files for protection under the *Companies' Creditors Arrangement Act (Canada)* or is a bankrupt or insolvent person under the *Bankruptcy and Insolvency Act (Canada).*

PART 6 - APPLICATION FEES AND ANNUAL FEES

Fees

17 An applicant for a licence or a renewal must pay to the City:

(a) an application fee of $100.00 for any application which is not a renewal of a licence;

(b) a renewal application fee of $75.00 for any application for a renewal of a seasonal licence;

23-108 (c) an annual inspection fee of $50.00 for any application for a renewal of an annual licence; and

(d) the applicable licence fees prescribed in Schedule B.

23-108 18 A licensee must pay to the City a fee of $10.00 if it requires a replacement decal to meet the requirement under section 9(1)(c).

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PART 7 – RELATIONSHIP TO OTHER BYLAWS

19 If a provision of this Bylaw conflicts with the Parks Regulation Bylaw, this Bylaw prevails.

20 If a provision of this Bylaw conflicts with the Streets and Traffic Bylaw, this Bylaw prevails.

PART 8 - GENERAL

Signs

21 The licensee must ensure that there are no signs which promote a third party in the patio area or on the patio.

Schedules

22 Schedules A, B, 1 and 2 attached to this Bylaw form part of this Bylaw.

Severability

23 If any provision or part of this Bylaw is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, it shall be severed from the bylaw and the balance of the bylaw, or its application in any circumstances, shall not be affected and shall continue to be in full force and effect.

Removal, Detention and Impounding

24 (1) Subject to subsection (2), the Director, a person authorized by the Director, or a bylaw officer may remove, seize, impound, dispose of or cause the removal, seizure, impoundment or disposal of any property or thing placed or left on a sidewalk or street in contravention of the provisions of this Bylaw or the terms and conditions of a licence, and any such property or thing will be dealt with in accordance with the Administration of Property in City Custody Bylaw.

(2) Except in circumstances where, in the opinion of the Director, the property or thing presents a safety hazard or obstructs accessibility, the Director must provide written notice of an intended seizure, impoundment, removal or disposal of the property or thing under subsection (1) at least 48 hours in advance of the seizure, impoundment, removal or disposal of the property or thing:

(a) to the owner of or the person responsible for placing or leaving the property or thing unlawfully on a sidewalk or street; or

(b) if the identity of the owner of or the person responsible for placing or leaving the property or thing unlawfully on a sidewalk or street is unknown to the Director, by posting on or adjacent to the property or thing a notice of the intended seizure, impoundment, removal, or disposal.

(3) An action taken under this section does not preclude:

(a) the prosecution of a person who contravenes a provision of this Bylaw; or

(b) the issuance of a bylaw notice or bylaw notices to a person who contravenes a provision of this Bylaw.

No City representation and an indemnity by licensee

25 (1) The issuance of a licence under this Bylaw does not constitute in any way a representation, warranty, or assurance that the patio area is suitable for the use or intended purpose of the business applying for the licence.

(2) The holder of a licence issued under this Bylaw shall be solely responsible for the use and occupation authorized by the licence and shall indemnify and hold harmless the City and its elected and appointed officials, employees, contractors and agents from any claim of loss or damages, including personal injury and pure economic loss, by any person for any reason connected with the issuance of the licence or the use and occupation authorized by the licence or anything undertaken or neglected to be undertaken in connection with the licence.

Offences

26 (1) A person commits an offence and is subject to the penalties imposed by this Bylaw, the Ticket Bylaw and the *Offence Act* if that person:

(a) contravenes a provision of this Bylaw;

(b) consents to, allows, or permits an act or thing to be done contrary to this Bylaw; or

(c) neglects or refrains from doing anything required by a provision of this Bylaw.

(2) Each day that a contravention of a provision of this Bylaw occurs or continues constitutes a separate offence.

Penalties

27 (1) Except as prescribed in the Ticket Bylaw, the maximum penalty for an offence under this Bylaw is a fine of not more than $50,000.00 for every instance that an offence occurs or for each day that it continues.

PART 9 – CONSEQUENTIAL AMENDMENTS

28 The Streets and Traffic Bylaw 09-079 is amended as follows:

(a) inserting the following definition immediately below the definition of “park”:

““patio” has the same meaning as in the Patio Bylaw, Bylaw 23-035;”;

(b) removing the last period in subsection 9 (r) and replacing it with a semi-colon;

(c) inserting the following subsection immediately below subsection 9(r):

"(s) streets or portions of streets where traffic, or classes of traffic, vehicles or drivers are regulated, controlled or prohibited as the Director of Engineering considers advisable to enable safe construction, placement, or operation of a patio."

29 The Ticket Bylaw 10-071 is amended as follows:

(a) in the table of contents at Schedule EE by deleting the words "Sidewalk Cafes" and replacing them with the word "Patio";

(b) in Schedule A at line 34 by deleting the words "Sidewalk Cafes" and replacing them with the word "Patio";

(c) repealing Schedule EE and replacing it with a new Schedule EE, which is attached to this Bylaw as Schedule 1.

30 The Bylaw Notice Adjudication Bylaw 16-017 is amended as follows:

(a) by adding a new section 5(3) immediately after section 5(2)":

"5(3) If payment is not received by the City after 14 days of the person receiving or being presumed to have received the bylaw notice, the penalty set out in column A is increased by the surcharge amount set out in column C of Schedule A." ;

(b) in Schedule A, by adding a "Column C – Surcharge"; and

(c) In Schedule A, by adding the rows set out in Schedule 2 to this Bylaw immediately after the last offence listed under the Demolition Waste and Deconstruction Bylaw No. 22-062.

PART 10 – TRANSITION, REPEAL, COMMENCEMENT

Transition

31 Repealed.

32 Repealed.

33 (1) As an exception to section 13, an enclosed patio which was licensed under the Sidewalk Café Patio Bylaw as of March 30, 2023 may be kept and operated until December 31 2026, provided:

(a) there is no additional construction or improvements added to the enclosed patio, as it existed on March 1, 2016, except for basic repair,

(b) repair to the enclosed patio is limited to replacing or maintaining the enclosed patio's shape and design as it existed on March 1, 2016;

(c) after December 31, 2023 the licensee continuously holds a valid licence under this Bylaw, and

(d) the licensee continuously holds a valid business licence.

(2) If an enclosed patio is damaged before December 31, 2026 to the extent that 40% or more of the enclosed patio must be replaced or repaired, the enclosed patio must be removed and may not be rebuilt.

(3) A licensee must cease operation and occupation of the enclosed patio and at its own cost and expense, remove all structures, other property, and things from the sidewalk or roadside and restore the sidewalk or roadside by December 31, 2026.

34 Sections 3 and 4(1) of this Bylaw are amended by removing the phrase "Subject to sections 31 and 32, a" and replacing it with the word "A".

35 Section 13(1) of this Bylaw is amended by removing the phrase "Subject to section 33, a" and replacing it with the word "A".

Repeal

36 The Sidewalk Cafes Regulation Bylaw No. 16-038 is repealed.

37 Sections 31 and 32 of this Bylaw are repealed.

38 Section 33 of this Bylaw is repealed.

Commencement

39 This Bylaw comes into force on March 31, 2023, except:

(a) sections 34, 36 and 37, which come into force on January 1, 2024; and

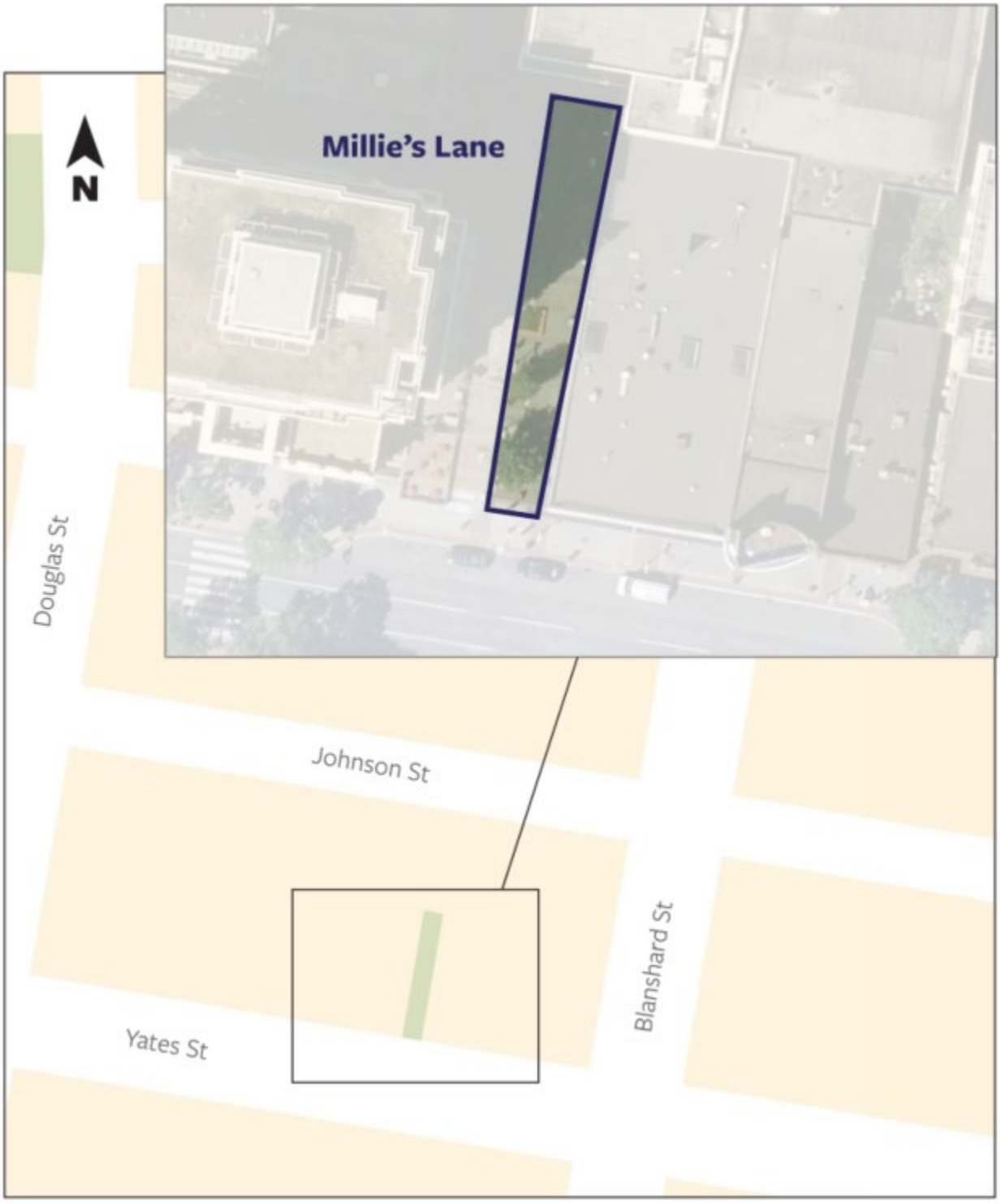
(b) sections 35 and 38, which come into force on January 1, 2027.

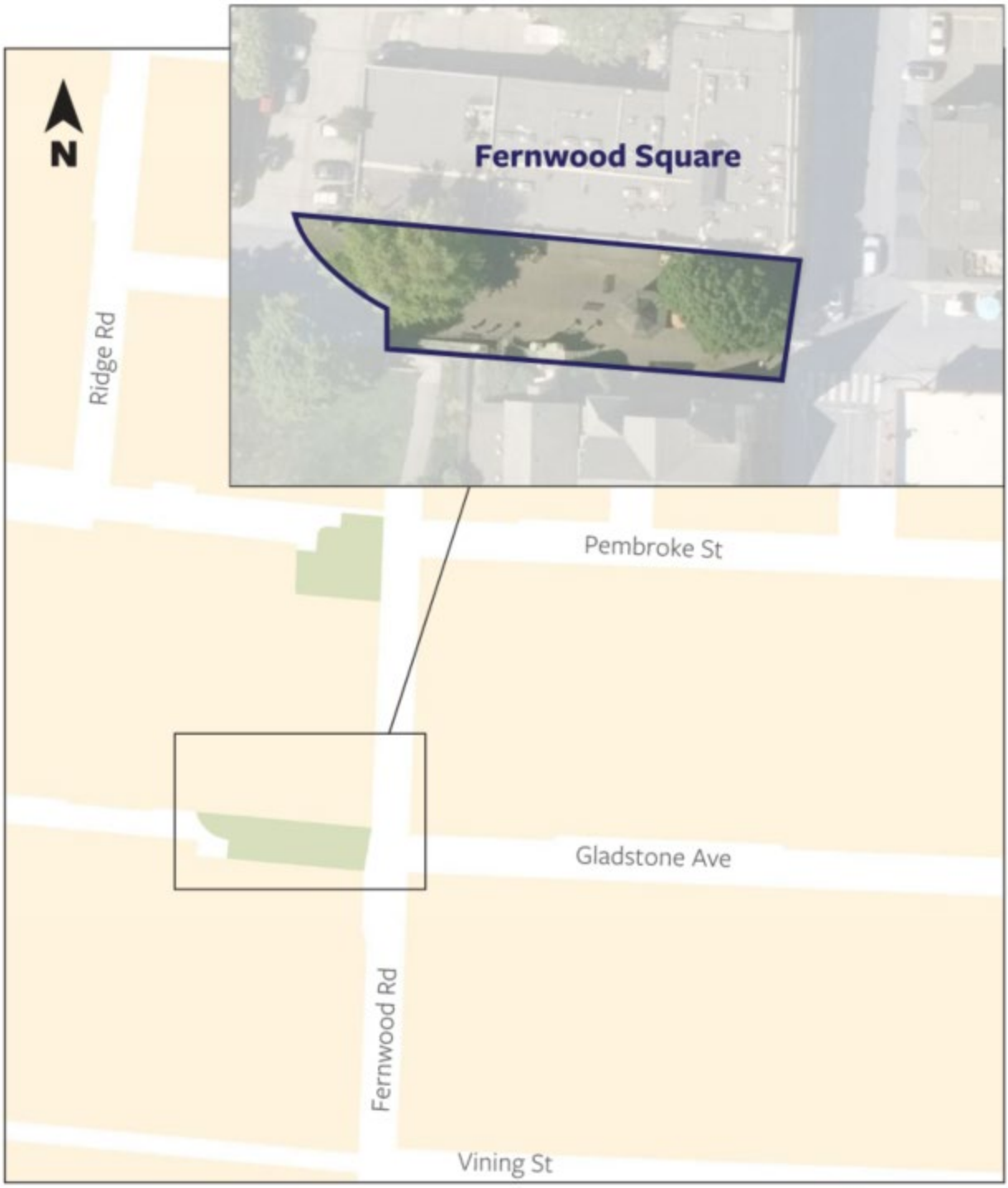
READ A FIRST TIME the	**9th**	day of	**March**	2023
READ A SECOND TIME the	**9th**	day of	**March**	2023
READ A THIRD TIME the	**9th**	day of	**March**	2023
ADOPTED on the	**16th**	day of	**March**	2023

“CURT KINGSLEY”
CITY CLERK

“MARIANNE ALTO”
MAYOR

SCHEDULE A




N
Fernwood Square
Ridge Rd
Pembroke St
Gladstone Ave
Fernwood Rd
Vining St


West Song
Walkway
Saghalie Rd
Harbour Rd
N
Cooperage Pl
Esquimalt Rd
Tyee Rd
Paul Kane Pl
Kimta Rd
Songhees Rd
Pelly
Island


Mary Street Park
N
William Street
Springfield Street
Esquimalt Road
Robert Street
Russell Street
Mary Street
Catherine Street
Kimta Road
Milne Street

SCHEDULE B

PATIO LICENCE FEES FOR USE

1. The Area Rate Table and Area Maps below form part of this Schedule B.

2. In this Schedule B:

   a. “property” means the parcel that hosts the food vending establishment operated by the licensee in connection with the patio licence; and

   b. “rate line” means the line shown in the centre of a sidewalk or street in an Area Map.

3. Patio licence fees for use are set out in the Area Rate Tables and apply per square foot.

4. The Area Rate Table that is applicable to a licence is determined by which rate line in the applicable Area Map the property has frontage onto. In the event a property fronts more than one rate line, the rate line with the higher valued Area Rate Table will apply. Where a property does not front on any rate line, the Area 5 Rate Table shall apply.

AREA RATE TABLES

26-073

2027 Patio Fees

Fee Area	Simple		Complex	
	Annual	Seasonal	Annual	Seasonal
1	$4.17	$2.08	$5.92	$2.96
2	$3.98	$1.99	$5.66	$2.83
3	$3.28	$1.64	$4.63	$2.32
4	$2.82	$1.40	$4.00	$2.00
5	$2.01	$1.00	$2.85	$1.42

2028 Patio Fees

Fee Area	Simple		Complex	
	Annual	Seasonal	Annual	Seasonal
1	$4.27	$2.13	$6.07	$3.03
2	$4.08	$2.04	$5.80	$2.90
3	$3.36	$1.68	$4.75	$2.38

4	$2.89	$1.44	$4.10	$2.05
5	$2.06	$1.03	$2.92	$1.46

2029 Patio Fees

Fee Area	Simple		Complex	
	Annual	Seasonal	Annual	Seasonal
1	$4.38	$2.18	$6.22	$3.11
2	$4.18	$2.09	$5.95	$2.97
3	$3.44	$1.72	$4.87	$2.44
4	$2.96	$1.48	$4.20	$2.10
5	$2.11	$1.06	$2.99	$1.50

2030 Patio Fees

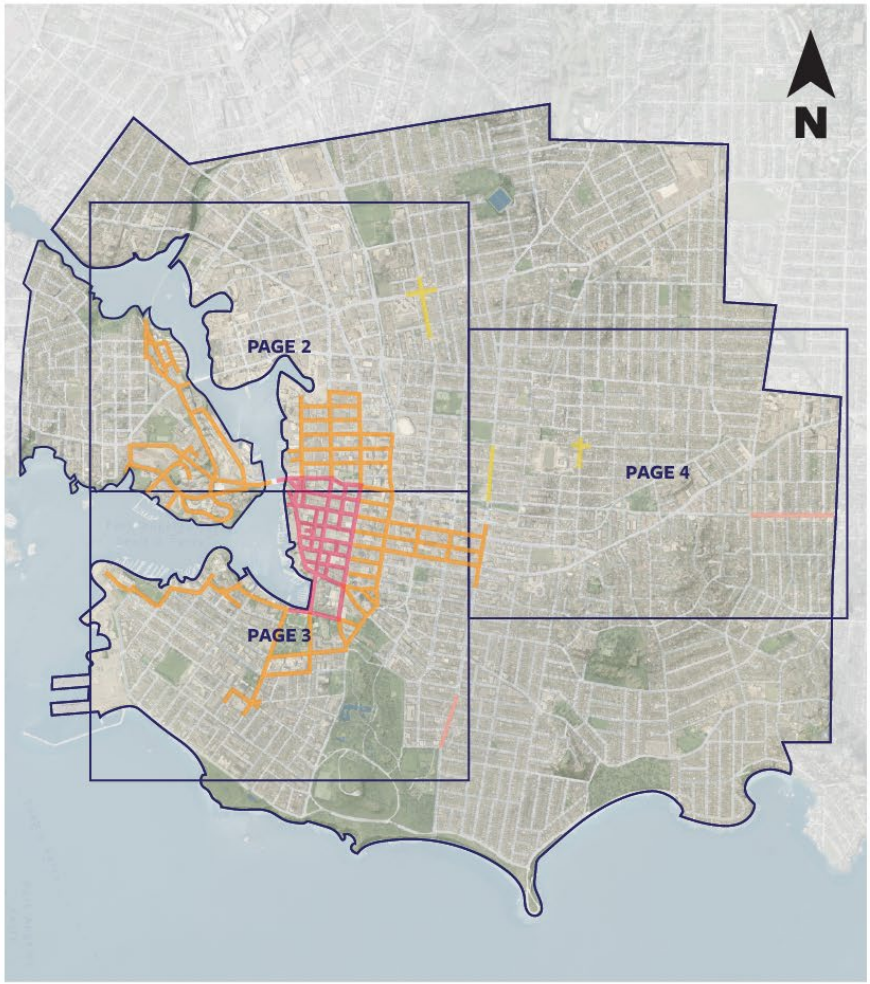
Fee Area	Simple		Complex	
	Annual	Seasonal	Annual	Seasonal
1	$4.49	$2.23	$6.38	$3.19
2	$4.28	$2.14	$6.10	$3.04
3	$3.53	$1.76	$4.99	$2.50
4	$3.03	$1.52	$4.31	$2.15
5	$2.16	$1.09	$3.06	$1.54

2031 Patio Fees

Fee Area	Simple		Complex	
	Annual	Seasonal	Annual	Seasonal
1	$4.60	$2.29	$6.54	$3.27
2	$4.39	$2.19	$6.25	$3.12
3	$3.62	$1.80	$5.11	$2.56
4	$3.11	$1.56	$4.42	$2.20
5	$2.21	$1.12	$3.14	$1.58

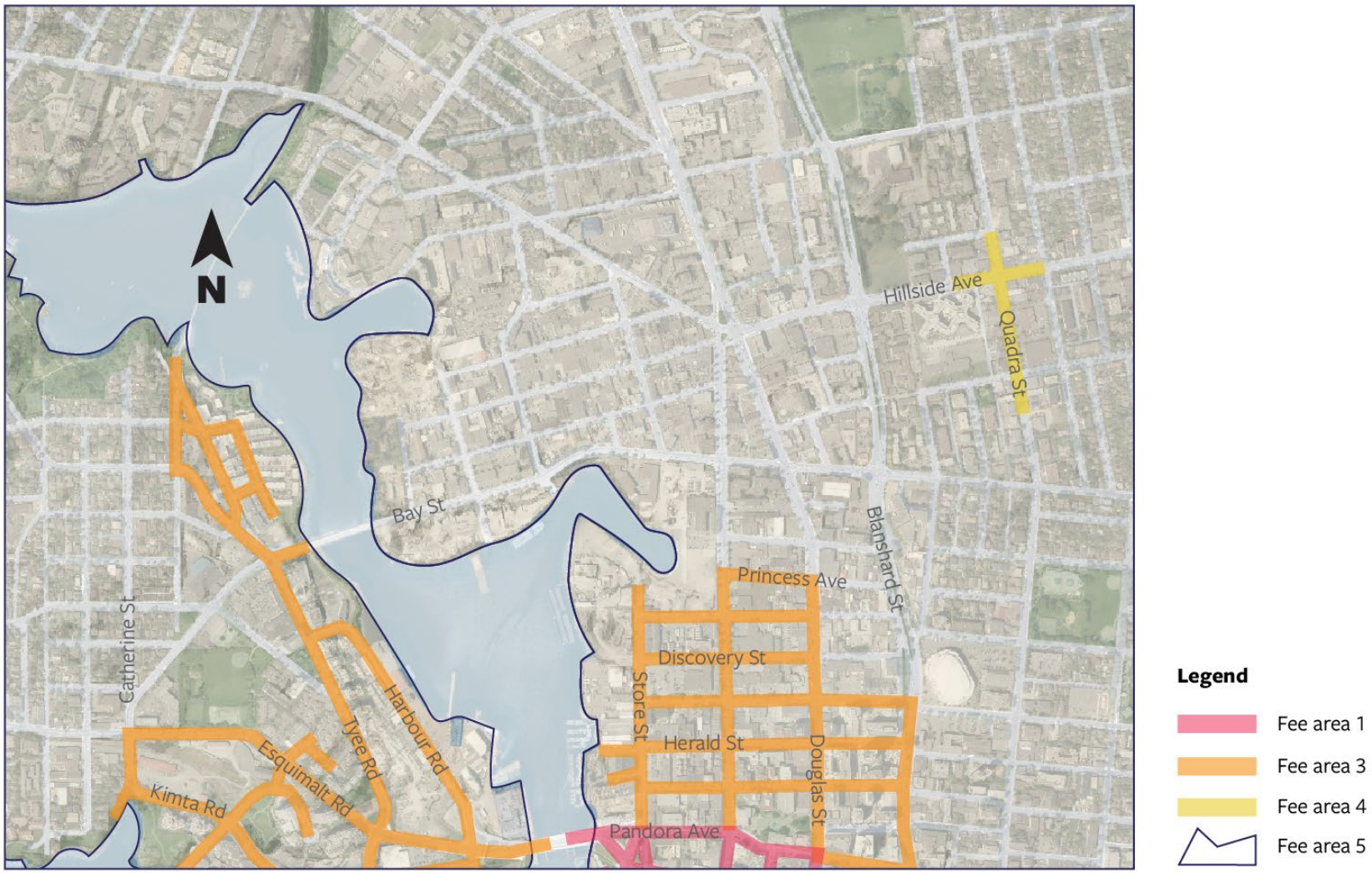
Schedule B

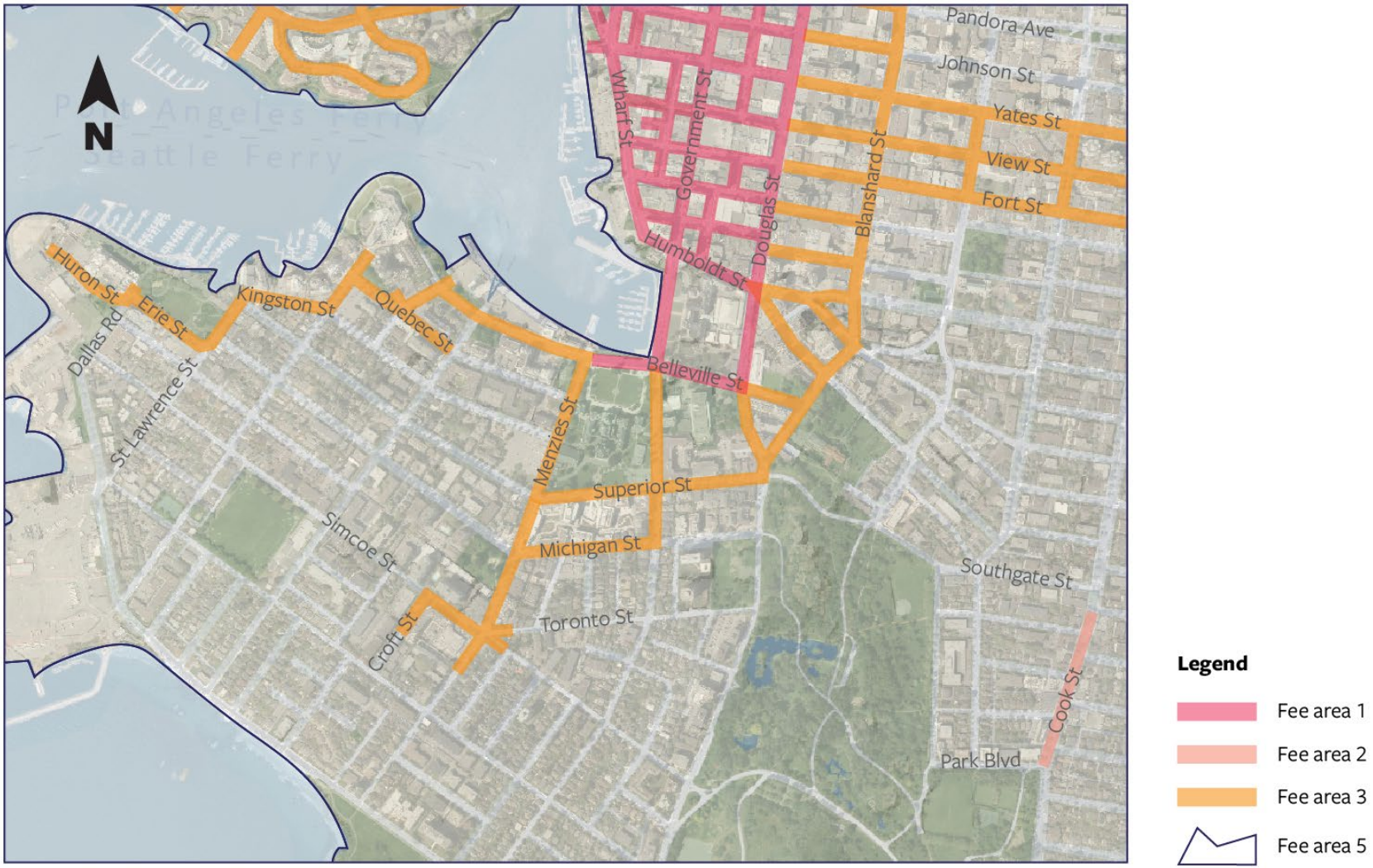
Area Maps



Legend

- Fee area 1
- Fee area 2
- Fee area 3
- Fee area 4
- Fee area 5


N
Hillside Ave
Quadra St
Bay St
Blanshard St
Princess Ave
Discovery St
Store St
Herald St
Douglas St
Pandora Ave
Catherine St
Harbour Rd
Tyee Rd
Esquimalt Rd
Kimta Rd
Legend
Fee area 1
Fee area 3
Fee area 4
Fee area 5


N
Pandora Ave
Johnson St
Yates St
View St
Fort St
Wharf St
Government St
Douglas St
Blanshard St
Humboldt St
Huron St
Erie St
Kingston St
Quebec St
Dallas Rd
St Lawrence St
Belleville St
Menzies St
Superior St
Simcoe St
Michigan St
Southgate St
Croft St
Toronto St
Cook St
Park Blvd
Legend
Fee area 1
Fee area 2
Fee area 3
Fee area 5


N
Bay St
Fernwood Rd
Caledonia Ave
Gladstone Ave
Vining St
Richmond Ave
Foul Bay Rd
Pandora Ave
Oak Bay Ave
Yates St
Cook St
Fort St
Legend
Fee area 2
Fee area 3
Fee area 4
Fee area 5

SCHEDULE 1 – Streets and Traffic Bylaw Consequential

Schedule EE

Patio Regulation Bylaw
Offences and Fines

Column 1 – Offence	Column 2 – Section	Column 3 – Set Fine	Column 4 – Fine if paid within 30 days
Operate patio w/o licence	3	$500	$400
Failure to display decal	9(1)(c)	$100	$80
Unauthorized modification to patio	9(1)(d)	$500	$400
Failure to keep patio area clean	9(1)(g)	$250	$200
Extend outside patio area	9(1)(i)	$500	$400
Unauthorized portable heater, heating appliance or propane tank	9(1)(k)	$500	$400
Failure to include required accessibility feature	10(1)(c)(d)	$500	$400
Unauthorized portable heater, heating appliance or propane tank	10(1)(g)	$500	$400
Operate an enclosed patio	13(1)	$500	$400
Allow signs other than as prescribed	21	$250	$200

SCHEDULE 2 –Bylaw Notice Adjudication Bylaw Schedule "A" Consequential Amendment

Patio Regulation Bylaw No. 23-035				**C Surcharge**
3	Operate patio w/o licence	500	125	125
9(1)(c)	Fail to display decal	100	25	25
9(1)(d)	Unauthorized modification of patio structure	500	125	125
9(1)(g)	Fail to keep patio area maintained	250	62.50	62.50
9(1)(i)	Extend outside patio area	500	125	125
9(1)(k)	Unauthorized portable heater, heating appliance or propane tank	500	125	125
10(1)(c)(d)	Fail to include accessibility feature as required	500	125	125
10(1)(g)	Unauthorized portable heater, heating appliance or propane tank	500	125	125
13(1)	Operate enclosed patio	500	125	125
21	Allow signs other than as prescribed	250	62.50	62.50