

City of Burlington By-law XX-2023

A by-law to delegate authority to temporarily restrict the common law right of passage in connection with on-street restaurant patios and retail uses in Downtown Burlington

Whereas section 23.1 of the *Municipal Act, 2001* S.O. 2001 c. 25, as amended, provides that Council may delegate some of its powers and duties under this or any other Act to City staff; and

Whereas Section 35 of the *Municipal Act, 2001* authorizes a municipality to pass by-laws removing or restricting the common law right of passage by the public over a highway; and

Whereas subsection 8 (4) of the *Municipal Act, 2001* provides that a by-law passed pursuant to that *Act* may be general or specific in its application and may differentiate in any way and on any basis a municipality considers appropriate; and

Whereas City Council has determined that it is appropriate to allow approved restaurant patios and retail uses to locate on a temporary basis on streets within Downtown Burlington;

Now therefore the Council of The Corporation of the City of Burlington hereby enacts as follows:

1. The authority to restrict the common law right of passage to temporarily prohibit the passage of vehicles as defined in the *Highway Traffic Act* R.S.O. 1990, c.H.8 to permit on-street restaurant patios and on-street retail uses is delegated to the Director of Transportation, subject to the following:
  - (a) The delegation of authority to restrict the common law right of passage hereunder shall be restricted to the geographic boundaries shown on the attached "Schedule 1 – Downtown Burlington Boundaries"
  - (b) The Director of Transportation shall determine the specific duration and on-street locations where the common law right of passage will be restricted; and
  - (c) Approval for the temporary restriction of common law right of passage of vehicles in connection with restaurant patios is conditional upon the applicant for the restaurant patio or retail use having executed a licence

agreement or other agreement with the City to the satisfaction of the  
Executive Director of Legal Services and Corporation Counsel.

2. This By-law shall expire on October 31, 2023.

Enacted and passed this 21 day of March, 2023.

Mayor Marianne Meed Ward \_\_\_\_\_

City Clerk Kevin Arjoon \_\_\_\_\_

## Schedule 1 - Burlington Downtown Boundaries

