



## **EXPLANATORY NOTE**

### **BY-LAW 2014-25**

**A By-law to amend By-laws 122-72, as amended by By-law 2003-167**

### **Unionville Core Area**

#### **Lands Affected**

The proposed by-law amendment applies to lands zoned as Heritage Main Street (HMS).

#### **Existing Zoning**

The existing zoning provisions in the above noted By-law do not permit restaurants but do identify and permit existing restaurants and take-out restaurants at specific municipal addresses the size as existing as of the day of the passing of the by-law. Retail uses are limited to specialty retail opportunities as opposed to convenience retail uses.

#### **Purpose and Effect**

The purpose of this By-law is to amend the above-noted Zoning By-law in order to modify and add specific definitions, add specific restaurant type uses as permitted uses and expand the permitted uses in the Heritage Main Street Zone.

The effect of the By-law is to allow a broader variety of uses within the Heritage Main Street (HMS) Zone including, but not limited to, restaurants, retail, convenience retail, personal service shops, supermarket, hotels and specialty food stores with permission for associated on-site eating/refreshment opportunities (i.e. bakery, deli, tea/coffee store, meat/fish market). Uses that are specifically prohibited are fast food restaurants, take-out restaurants, drive-in/drive-through restaurants and service facilities, taverns/bars and adult video outlets. Existing take-out restaurants would be considered legal, non-conforming uses.



## BY-LAW 2014-25

A By-law to amend By-law 122-72, as amended

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THE COUNCIL OF THE CORPORATION OF THE CITY OF MARKHAM  
HEREBY ENACTS AS FOLLOWS:

1.0 By-law 122-72 as amended by 2003-167 be and the same is hereby further amended as follows:

1.1 By adding, amending or replacing the following definitions in Section 1.4 of By-law 2003-167:

- The definition of RESTAURANT is replaced with the following definition:  
“RESTAURANT means an establishment for the preparation and sale of food and beverages served by a restaurant employee to a table located in an area inside or outside the building where the food is prepared and, as an accessory use thereto, such establishment may offer take-out service. Such establishment may include a licensed dining lounge and a pub-style restaurant.”
- The definition of RESTAURANT, FAST FOOD is replaced with the following definition:  
“RESTAURANT, FAST FOOD means an establishment for the preparation and sale of food and beverages in a self serve/counter format for consumption both inside and outside the building(s) on the premises and serves or delivers its food and beverages in disposable containers, and as accessory thereto may offer drive-in, drive-through, take-out, or packaged fast food service.”
- The definition of RESTAURANT, TAVERN is deleted and replaced with the following:  
“TAVERN/BAR means a building or part thereof where, liquor, beer or wine, or any combination thereof, are served for consumption on the premises, primarily without food.”
- The following definition of DRIVE-THROUGH SERVICE FACILITY is added:  
“DRIVE-THROUGH SERVICE FACILITY means a building or structure or part thereof where goods and/or services are offered to the public within a parked or stationary vehicle by way of a service window or kiosk, where goods, money or services are exchanged.”
- The following definition of SPECIALTY FOOD STORE is added:  
“SPECIALTY FOOD STORE means a retail premise primarily for the sale of packaged food products for consumption off- site with accessory sales of prepared foods and refreshments for on-site and/or off-site consumption.”

- The following definition of ADULT GOODS is added:  
“ADULT GOODS means slides, films, videotape, DVD, pre-recorded magnetic tape and computerized or electronically generated images, the container or contents of which are designed or held out as designed to appeal to erotic or sexual appetites or inclinations through the pictorial, photographic or other graphic depiction of subject matter distinguished or characterized by the portrayal of one or more persons involved or engaging in actual or simulated sexual intercourse, ejaculation, sodomy, including anal intercourse, oral sexual intercourse or direct physical stimulation of unclothed genital organs or through depiction of the anus or genitals.”
- The following definition of ADULT VIDEO OUTLET is added:  
“ADULT VIDEO OUTLET means any premise in which the principal business is the sale or rental of “adult goods” or in respect of which the advertisements refer to ‘adult’, X-rated’, ‘XXX’ or similar description in reference to the goods offered or provided in the premise, but shall not include any screening or viewing facilities, incidental or otherwise, for the adult goods within the premises. Without limiting the generality of the foregoing, the provision of “adult goods” shall not be accessory to any other business except in circumstances where “adult goods” are provided in conjunction with the sale or rental of videotape/DVD and the area from which adult goods are provided or the total area occupied by adult goods does not exceed 17.0 square metres.”

- 1.2 By deleting Section 14 – HERITAGE MAIN STREET (HMS) ZONE of By-law 122-72, as amended in its entirety, and substituting the following:

“SECTION 14 – HERITAGE MAIN STREET (HMS) ZONE

14.1 HMS USES PERMITTED

No person shall hereafter change the use of any BUILDING, STRUCTURE or land, nor ERECT and use any BUILDING or STRUCTURE in a HERITAGE MAIN STREET (HMS) ZONE except for one or more of the following uses:

- RETAIL STORE which without limiting the generality of the definition thereof, may include a CONVENIENCE RETAIL STORE, HOME FURNISHING STORE and a wine, liquor and/or beer store.
- SPECIALTY FOOD STORE which without limiting the generality of the definition thereof, may include a confectionery store, a delicatessen, a fish and/or meat market, a wine and/or beer making store, a tea/coffee store, or other similar retail establishment.
- PERSONAL SERVICE SHOP
- SUPERMARKET
- RESTAURANT, CAFÉ RESTAURANT
- BAKE SHOP
- Display, storage and sale of objects of art and craft work such as an antique shop

- CUSTOM WORKSHOP for the production, repair and storage of art and craft work as accessory to the commercial sale of such objects in the same building
- Outdoor display, exhibition and kiosk, and open air market
- Photographer's Studio
- HOTEL
- BED AND BREAKFAST INN
- Historical museum, library, art gallery
- Amateur and semi-professional theatre and the like
- BUSINESS AND PROFESSIONAL OFFICE, COMMERCIAL SCHOOL and HEALTH CENTRE provided that such uses shall not be located on the ground floor of buildings
- DWELLING UNIT in the same BUILDING as any of the above permitted uses
- SINGLE DETACHED DWELLING

The following provisions shall apply to a BAKE SHOP, SUPERMARKET and SPECIALTY FOOD STORE offering the sale of grocery or food type merchandise:

- (i) a seating area for up to 24 persons for on-site consumption shall be permitted as an accessory use.

#### 14.2 PROHIBITED USES

In addition to the uses prohibited by Subsection 5.19 of By-law 122-72, as amended, the following uses shall also be prohibited in the HERITAGE MAIN STREET (HMS) ZONE:

- FAST FOOD RESTAURANT
- TAKE-OUT RESTAURANT
- DRIVE-IN RESTAURANT
- DRIVE-THROUGH SERVICE FACILITY
- TAVERN/BAR
- ADULT VIDEO OUTLET

#### 14.3 SITE SPECIFIC EXCEPTIONS

- (a) Notwithstanding the provisions of Subsection 14.1 and 14.2 above, the following additional uses shall be permitted/prohibited on a site specific exception basis for the properties noted:

(i) 141, 143 and 145 Main Street, Unionville

TAKE OUT RESTAURANTS, take-out service accessory to a RESTAURANT, and outdoor garbage storage facilities associated with a RESTAURANT shall be prohibited on the lands municipally known as 141, 143 and 145 Main Street as shown on Schedule 'B' which properties are zoned Heritage Main Street (HMS). In addition, the following prohibition or restriction of outdoor patios or decks accessory to a RESTAURANT shall apply to the aforementioned properties:

- 143 and 145 Main Street- outdoor patios and decks associated with a RESTAURANT shall be prohibited.

- 141 Main Street – one (1) outdoor patio or deck accessory to a RESTAURANT shall be permitted, having a maximum floor area of 100 square metres, and shall be located in the FRONT YARD only and set back a minimum distance from the LOT LINES as follows:

LOT LINE	MINIMUM SETBACK
EAST	58.0 metres
NORTH	14.0 metres
SOUTH	8.0 metres
WEST	3.0 metres

Any portion of the outdoor patio or deck projecting south of the south wall of the MAIN BUILDING shall be required to be visually screened in relation to the abutting residential ZONE to the east, through a combination of landscaping and privacy screen fencing.

(ii) 136, 141, 143 and 145 Main Street, 2 and 4 Station Lane, Unionville

Business and professional OFFICES shall be permitted on the GROUND FLOOR of BUILDINGS on the lands known as 136, 141, 143 and 145 Main Street, and 2 and 4 Station Lane as shown on Schedule 'B'.

(b) 141 and 143 Main Street, Unionville

Notwithstanding the provisions of Section 14.4(d)(i) of By-law 122-72, as amended, in the case of the two properties municipally known as 141 and 143 Main Street as shown on Schedule 'B', which properties are zoned HERITAGE MAIN STREET (HMS), the continuous LANDSCAPED OPEN SPACE buffer required along the REAR (east) LOT LINE of these properties where abutting a residential ZONE shall be subject to the following special requirements:

- (i) a total buffer width of not less than 13 metres measured from the west LOT LINE of the adjacent property in a residential ZONE (i.e. Part 2, Plan 65R-8342, municipally known as 12 Victoria Avenue);
- (ii) the easterly 7 metres of such buffer shall be landscaped to achieve both high and low level landscape screening consisting of evergreen and deciduous plantings, and is also to include privacy screen fencing;
- (iii) the westerly 6 metres of such buffer is to be sodded;
- (iv) any existing vegetation on the lands within the 13 metre wide buffer is to be preserved and maintained to the extent possible;

(v) in the 13 metre wide buffer, no person shall hereafter ERECT any BUILDING or STRUCTURE of any kind, or construct or use any PARKING LOT or PARKING SPACE, excepting a privacy screen fence as required by paragraph (ii) above; and

(vi) as a condition of any use of the lands at 141 Main Street for commercial purposes, the existing garage at the southeast corner of the property shall be removed and the area used for LANDSCAPED OPEN SPACE in accordance with all the provisions of this subsection.

(c) Municipally-Controlled Parking Lot

Notwithstanding the provisions of subsection 14.1 and 16.1 of By-law 122-72, as amended, a MUNICIPALLY CONTROLLED PARKING LOT shall be permitted on the lands zoned HERITAGE MAIN STREET (HMS) and OPEN SPACE (O1) east of Main Street between Carlton Road and Victoria Avenue.

14.4 ZONE REQUIREMENTS

In the HERITAGE MAIN STREET (HMS) ZONE, no PERSON shall hereafter ERECT or use a BUILDING or STRUCTURE except in compliance with the following requirements:

(a) MAXIMUM LOT COVERAGE: thirty-five percent (35%)

(b) MAXIMUM HEIGHT of a BUILDING or STRUCTURE: 10.7 metres

(c) EXEMPTION FROM LOADING SPACE REQUIREMENTS:

Notwithstanding the provisions of Subsection 5.13 of By-law 122-72, as amended, LOADING SPACE shall not be required for permitted uses in the HERITAGE MAIN STREET (HMS) ZONE

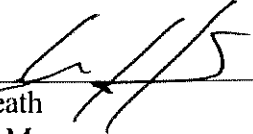
(d) LANDSCAPED OPEN SPACE BUFFER  
REQUIREMENTS:

- (i) Where a property in the HERITAGE MAIN STREET (HMS) ZONE abuts a residential ZONE, a continuous LANDSCAPED OPEN SPACE buffer not less than 3 metres in width shall be provided and maintained on the commercially zone property adjoining the ZONE boundary. Such LANDSCAPED OPEN SPACE shall provide both high and low level visual screening and consist of evergreen and deciduous plantings
- (ii) The provisions of Subsection 5.14 (b) and (c) of By-law 122-72, as amended, shall not apply.”

3.0 All other provisions of By-law 122-72, as amended, not inconsistent with the provisions of this by-law shall continue to apply.

Read a first, second, and third time and passed on March 5, 2014.

  
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Kimberley Kitteringham  
City Clerk

  
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Jack Heath  
Deputy Mayor