

Regulation of Queuing on the Public Sidewalk

Date:	December 18, 2007
To:	Licensing and Standards Committee
From:	Executive Director, Municipal Licensing and Standards
Wards:	All
Reference Number:	5527

SUMMARY

Consultations were undertaken with City Divisions, the Toronto Police Service (Divisions 52 and 14), the Alcohol and Gaming Commission (AGCO), the King-Spadina Residents Association (KSRA), the Toronto Entertainment District Association, as well as representatives of the club owners. Input was sought from the Toronto Pedestrian Committee.

The Toronto Pedestrian Charter reflects the principle that a city's walkability is one of the most important measures of the quality of its public realm, and of its health and vitality. The purpose of regulating queuing on the sidewalk would be to support the principles set out in Toronto Pedestrian Charter, and in particular: Accessibility; Personal and Community Safety; and, Community Cohesion and Vitality.

The City of Toronto Accessibility Design Guidelines and Vibrant Streets - Toronto's Coordinated Street Furniture Program both address the use of City sidewalks and recommend that in no case should clearways for pedestrians be less than 1525 mm wide.

Three possible options for the implementation of the regulations have been considered: a permitting scheme similar to that used with cafes and marketing; amending the crowd control plan requirements currently contained in Chapter 545, Licensing relating to Entertainment Establishments and Nightclubs; or seeking to apply conditions to the liquor licence through the licensing process of the AGCO.

Staff recommend that the Toronto Municipal Code Chapter 545, Licensing, ARTICLE XLI Entertainment Establishment/Nightclub § 545-497, Noise control and crowd control plan, of Chapter 545, Licensing be amended to include the regulations to be followed in the development of the required crowd control plan.

RECOMMENDATIONS

The Executive Director, Municipal Licensing and Standards Division, recommends that:

1. Toronto Municipal Code Chapter 545, Licensing, be amended to include in § 545-497. Noise control and crowd control plan, the following:
 - a. A queue shall not be comprised of more than two (2) files of persons.
 - b. A queue shall not be formed so as to obstruct pedestrians in any manner or location.
 - c. A queue shall not be formed other than in a straight line adjacent and parallel to the curb or edge of the sidewalk closest to the roadway.
 - d. A queue shall not extend beyond the limit of the business for which the patrons are seeking entrance.
 - e. A queue shall not be formed when a minimum clearway of 1525 mm wide cannot be maintained at all times.
 - f. All queues shall be monitored by security guards, with at least one security guard for every 100 patrons in the queue.
2. City Staff be authorized and directed to take any other action necessary to implement the recommendations of this report.

IMPLEMENTATION POINTS

Since crowd control plans for Entertainment Establishment/Nightclub are currently required to be filed by every owner, the inclusion of these new regulations will have no impact on the staffing requirement necessary to process the licensing application. No additional enforcement staff will required at this time as a result of the inclusion of queuing regulation in the crowd control plans.

FINANCIAL IMPACT

The recommendations will have no financial impact beyond what has already been approved in the current year's budget.

DECISION HISTORY

The Public Works and Infrastructure Committee (the Committee), at its meeting of May 2, 2007, received communications from Councillor Vaughan and Councillor Palacio asking that the Public Works and Infrastructure Committee request a report and

implementation plan from city staff with respect to the use of public sidewalks by licensed entertainment facilities.

The Committee referred these communications to the General Manager, Transportation Services, to report, in consultation with the Executive Director, Municipal Licensing and Standards Division.

At its meeting of June 27, 2007, the Committee had before it the report from the Executive Director, Municipal Licensing and Standards dated June 13, 2007. The Committee adopted the recommendations and referred the matter to Council.

City Council, at its meeting of July 16, 17, 18 and 19, 2007, adopted the following motions:

1. The appropriate internal and external consultations to develop the regulatory strategy to manage queuing on the public sidewalk be undertaken,
2. Municipal Licensing and Standards, in consultation with Transportation Services and the Toronto Police Service, report to the November 28, 2007 meeting of the Public Works and Infrastructure Committee on the necessary amendments to Chapter 743, Streets, Chapter 441, Fees, and Chapter 545, Licensing, of the City of Toronto Municipal Code to implement the regulatory regime; the report to also include the number of reported offences related to queuing on sidewalks,
3. Notice of any proposed amendments to Chapter 545, Licensing, and Chapter 441, Fees, shall be given before the Committee meeting, as prescribed in the Toronto Municipal Code Chapter 162, Notice, Public,
4. The appropriate City officials be authorized and directed to take the necessary action to give effect to the foregoing, including the introduction in Council of any Bills that may be required.

ISSUE BACKGROUND

This request is identified as part of an overall strategy to address the community health and safety issues that result from the high concentration of licensed entertainment facilities in the Entertainment District.

The issues of concern include:

- influx of large numbers of bar patrons (35,000-40,000) on any given night of the weekend
- people exiting bars en-masse at bar closing
- drunk driving
- police report seeing more weapons in clubs
- community complaints (noise, disturbances, etc.)
- incidents of violence - inside and outside of clubs
- high enforcement costs (City and Province)
- *Liquor Licence Act* violations (selling to intoxicated persons, serving to minors, selling illegal liquor, overcrowding, etc.)

It has been noted that entertainment and cultural facilities regularly use the public sidewalk for people seeking entry and re-entry into their establishments. While Chapter 313 of the former City of Toronto Municipal Code and other of the former Streets by-laws did have some regulations related to theatre queues, these queues occupy the sidewalk without detailed regulations. Additionally, the queues may be viewed as an extension of the business operation, as they are established to permit the collection of the entrance fee as well as facilitating the use of the metal detectors. Additionally, operators on occasion will artificially create queues in front of their premises to create the appearance that their businesses are busy. The City does not authorize the use or issue a permit for this occupation of City property in a manner similar to marketing or cafes.

COMMENTS

Consultations

As requested, in October and November 2007, staff undertook a series of meetings to gather information on the subject of queuing. Internally, staff met with representatives from City Divisions including Solid Waste Management Services, Transportation Services, Legal Services, and the Diversity Management and Community Engagement Office in the Office of the City Manager. Further, a representative 52 Division of the Toronto Police Service and a representative of the AGCO attended.

Staff also had meetings with representatives of the KSRA and the Toronto Entertainment District Association, as well as representatives of the club owners. Staff made a presentation to the Toronto Pedestrian Committee at its meeting of October 16, 2007.

In the consultations, common themes were identified by the participants, namely:

- the sidewalks are crowded in the entertainment district;
- virtually every club uses sidewalk area for line-ups;
- the control of line-ups is appropriate; and,
- the requirements governing line-ups should be incorporated into the existing set of requirements for the entertainment establishment/nightclub business licence category.

The reasons for not creating a separate permitting regime include that the following: it would be cumbersome; it is unnecessary in light of the licensing requirements; new regulations could be incorporated into the requirements of the licensing bylaw; while more detailed regulations are needed, it would not be an effective improvement over a clearer set of requirements in the licensing bylaw for the nightclub business category; and, it would create an unnecessary added expense on the business operators.

Most felt that there should be a distinction between the planned routine use of the public sidewalk for line-ups and occasional line-ups which occur on special occasions for business purposes.

Staff requested from both 52 and 14 Divisions of the Toronto Police Service, the number of reported offences related to queuing on the public sidewalks in their respective areas.

Both Divisions advised that they do not compile statistics which would indicate offences related to queuing on the public sidewalk.

They did, however, state that some clubs located inside and outside of the entertainment district artificially create long queues in front of their premises in order to look like they are the “happening place to be” to potential customers. The representative from 14 Division stated that he had personally entered into a premise that had a lengthy queue outside, but found that the premises held only about 150 persons although they had Toronto Fire Service and AGCO approval for 300 persons. The club was creating a lengthy queue outside in order to generate interest on the street in their particular club.

Purpose/Goal of Regulation

It is recognized that the use of the sidewalks, if not managed in an orderly way, can be a nuisance to pedestrians using the sidewalks and impact on businesses relying on sidewalks as an access point for patrons. Additionally, sidewalks that are overcrowded may create a circumstance that could lead to pedestrians being fearful for their health and safety.

In adopting the Toronto Pedestrian Charter (Charter) in 2002, Council intended:

- to outline what pedestrians have a right to expect from the City in terms of meeting their travel needs;
- to establish principles to guide the development of all policies and practices that affect pedestrians; and,
- to identify the features of an urban environment and infrastructure that will encourage and support walking.

The Charter contains 6 principles:

Accessibility: Walking is a free and direct means of accessing local goods, services, community amenities and public transit.

Equity: Walking is the only mode of travel that is universally affordable, and allows children and youth, and people with specific medical conditions to travel independently.

Health and Well-being: Walking is a proven method of promoting personal health and well-being.

Environmental Sustainability: Walking relies on human power and has negligible environmental impact.

Personal and Community Safety: An environment in which people feel safe and comfortable walking increases community safety for all.

Community Cohesion and Vitality: A pedestrian-friendly environment encourages and facilitates social interaction and local economic vitality.

The purpose of regulating queuing on the sidewalk would be to support these principles and, in particular: Accessibility; Personal and Community Safety; and, Community Cohesion and Vitality.

Current Guidelines and Regulations

In addition to the Charter, there are other documents within the City which provide guidelines to the use of the City sidewalks:

The City of Toronto Accessibility Design Guidelines provides as follows:

1.1.7 Paths, Sidewalks and Walkways

POLICY:

All entrance paths/sidewalks in a public right of way and/or walkways for pedestrians and persons using mobility aids must be of firm, level, and non-slip materials and are recommended to be a minimum of 1675 mm wide to allow two wheelchairs or scooters to pass one another. In no case should sidewalks be less than 1525 mm wide when two-way traffic is expected.

1.1.8 Pedestrian Routes

POLICY

Public Pedestrian routes should be designed to ensure the comfort and safety of all persons regardless of age or ability.

- All active routes required to accommodate persons using mobility aids, walkers, or persons accompanied by guide dogs, should be a minimum of 1500 mm wide; 1675 mm is preferred.
- All routes should be free of protruding obstacles, overhanging signs, branches etc., in the walking area, to aid persons with visual limitations.

Vibrant Streets - Toronto's Coordinated Street Furniture Program, the document which contains Toronto's Coordinated Street Furniture Program Design and Policy Guidelines, has as one of the Design Priorities: Width of Public Boulevard Right-of-Way Zones. This priority indicates that the preferred width of the Pedestrian Clearway is 2.1 metres wide, and in no case should be less than 1.525 metres.

Additionally, Chapter 313, Streets and Sidewalks of the former City of Toronto Municipal Code in § 313-5. Theatre queues, provides that:

The forming of theatre and other queues on any street or sidewalk shall be subject to the following regulations, and no person shall form, cause or permit the formation of a queue except as follows:

- a. No queue shall be comprised of more than two (2) files of persons.
- b. No queue shall be formed up so as to obstruct pedestrians or in any manner or location other than in a straight line adjacent and parallel to the curb or edge of the sidewalk closest to the roadway.
- c. A break shall be made in every queue at each street intersection and opposite the premises at the head of the queue.
- d. Extent of the line-up cannot extend beyond the limit of the business for which the patrons are seeking entrance

Proposed Regulations

It is proposed that the following regulations be implemented to govern the queuing related to entertainment establishments and nightclubs:

1. A queue shall not be comprised of more than two (2) files of persons.
2. A queue shall not be formed so as to obstruct pedestrians or in any manner or location.
3. A queue shall not be formed other than in a straight line adjacent and parallel to the curb or edge of the sidewalk closest to the roadway.
4. A queue shall not extend beyond the limit of the business for which the patrons are seeking entrance.
5. A queue shall not be formed where a minimum clearway of 1525 m wide cannot be maintained at all times.
6. All queues shall be monitored by security guards, with at least one security guard for every 100 patrons in the queue.

Possible Regulatory Instruments

Three possible options for the implementation of the regulations have been considered.

1. Amending the Streets By-law to include permitting scheme with detailed regulations; amend Fees By-law to impose fee for permit; amend Licensing By-law to add condition to Entertainment licences.
2. Amending the Licensing By-law to include detailed queuing regulations to be included in crowd control plans.
3. Seeking to add queuing conditions to the liquor licence on a site by site basis through the licensing process of the AGCO.

Option 1: Creating a Sidewalk Permitting Regime

A permitting regime would be similar to that used for cafes.

Such a regime would be a free standing permit, independent of the business licensing process. An application for the permit may be subject to a polling process that would provide neighbouring property owners with direct input into each application for a permit. Any process for appeal would be through the local community council.

Additionally, when a business requires a business licence, Chapter 545, Licensing, may be amended to reflect the need for a queuing permit if the business uses the sidewalk to form queues as an extension of its business activities.

A major concern with creating a sidewalk permitting regime is that it will be broad in its application. As a result, all other businesses and activities that may require the use of the sidewalk for queuing purposes from time to time would be required to obtain a permit.

The licensing requirements of the Municipal Code applicable to entertainment establishments and nightclubs currently require the filing of a crowd control plan. The issues related to queuing are taken into consideration in the development of the plan. A free standing regime would be a second layer of regulation on licensed businesses together with an added fee for such business.

Option 2: Amending Toronto Municipal Code, Chapter 545, Licensing

Toronto Municipal Code Chapter 545, Licensing ARTICLE XLI Entertainment Establishment/Nightclub requires every owner to file a crowd control plan which includes a description of the manner in which people seeking entry or re-entry into the establishment may line up outside of the establishment prior to entry, including the location of such line ups, the maximum number of people permitted to be in such line ups, and the procedures used by the establishment to monitor the line ups, to control the number of people in the line ups, and to ensure orderly conduct by the people in the line ups.

The inclusion of queuing requirements in Chapter 545 would provide for the regulation to be directed to those businesses that make use of the sidewalks as an extension of their businesses. It is less likely that there would be businesses or activities included unintentionally. Additionally, in the case of entertainment establishments and nightclubs, queuing requirements for crowd control plans are contained in the bylaw. This approach is simpler in application for the businesses affected with only one process to navigate and one fee charged.

The appeals or revocation process resulting from any breaches would be through the Licensing Tribunal.

Option 3: Adding Queuing Conditions through Liquor Licensing process of the AGCO

The ability to apply a queuing regulation and restriction exists through the liquor licensing process. This approach provides the most targeted method to addressing specific concerns with the specific problematic operation. The enforcement of the

conditions would be through the AGCO. Its ability to suspend or revoke a liquor licence often has the greatest impact since the loss of liquor licence effectively closes a business.

However, it should be noted that the process to obtain conditions is difficult and onerous, and is out of the control of the City.

Recommended Strategy

Staff recommended Option 2 as the most appropriate methodology for implementing the regulation of queuing.

Option 2 most closely aligns with the feedback received from the consultation groups, namely, that the requirements governing queues should be incorporated into the existing set of requirements for the entertainment establishment/nightclub business category.

Additionally, the crowd control plan, as required in Chapter 545, Licensing, for entertainment establishments and nightclubs is the most appropriate document to implement the queuing requirements to achieve positive results in the most efficient manner.

Further, it provides the most equitable approach, by allowing for the institution of regulations to address community concerns while not layering upon the operators an additional layer of administration or cost.

It is recommended that § 545-497. Noise control and crowd control plan of Chapter 545, Licensing be amended to include the following as regulations to be followed in the development of the crowd control plan.

1. A queue shall not be comprised of more than two (2) files of persons.
2. A queue shall not be formed so as to obstruct pedestrians or in any manner or location.
3. A queue shall not be formed other than in a straight line adjacent and parallel to the curb or edge of the sidewalk closest to the roadway.
4. A queue shall not extend beyond the limit of the business for which the patrons are seeking entrance.
5. A queue shall not be formed where a minimum clearway of 1525 mm wide cannot be maintained at all times.

6. All queues shall be monitored by security guards, with at least one security guard for every 100 patrons in the queue.

CONTACT

Frank Weinstock
Manager, Policy and Planning Services
Municipal Licensing and Standards Division
Tel: (416) 392-0404
Fax: (416) 397-5463
E-mail: fweinst@toronto.ca

SIGNATURE

Lenna Bradburn
Executive Director
Municipal Licensing and Standards Division