

Polling Procedures for Front Yard Parking - Municipal Code Chapter 918

Date:	October 21, 2008
To:	Public Works and Infrastructure Committee
From:	General Manager, Transportation Services
Wards:	All
Reference Number:	PW08089te.row.doc

SUMMARY

Since the enactment of the new Municipal Code Chapter 918 – Parking on Residential Front Yards and Boulevards, in April 2007, concerns have emerged with the polling criteria applied in processing applications and specifically that the 50 percent poll return rate is problematic.

Staff have reviewed the development of the polling criteria, compared the requirements for similar polls and assessed all appeals to Community Councils based on the new Code Chapter. We conclude that a reduction in this requirement to 25 percent response rate is fair for applicants and would continue to address Council's desire that neighbourhood input play a strong role in the front yard parking process.

RECOMMENDATIONS

The General Manager of Transportation Services recommends that City Council:

1. amend Municipal Code Chapter 918 – Parking on Residential Front Yards and Boulevards, by changing the minimum requirement of 50 percent polling response rate to 25 percent, for a poll to be deemed positive; and
2. direct that any applicant whose appeal is/was based solely upon not achieving the required minimum response rate at the time of 50 percent under the new Municipal Code Chapter 918, but having received a response rate of 25 percent or greater and the majority of those respondents in favour of the application, shall

have their appeal fee refunded and their applications processed pursuant to the criteria of City of Toronto Municipal Code Chapter 918.

FINANCIAL IMPACT

Should the recommendation in this report be adopted, front yard parking appeal fees in the order of approximately \$11,300 would be refunded to applicants.

Financial Services has reviewed the Financial Impact and concur with this report.

DECISION HISTORY

The Public Works and Infrastructure Committee, at its meeting of May 7, 2008, considered a communication (May 7, 2008) from Councillor Sandra Bussin outlining concerns with the polling process for front yard parking applications. Committee referred the letter to the General Manager, Transportation Services for consideration and report back (Item PW15.3).

COMMENTS

Concerns with the Current Polling Process

Councillor Bussin notes in her letter that a number of applicants for front yard parking, who otherwise meet the criteria for a parking pad are failing to pass the required poll. The requirement in the harmonized regulation, Municipal Code Chapter 918 – Parking on Residential Front Yards and Boulevards, stipulates a minimum of 50 percent of ballots be returned and, of those, a majority must be in support. Councillor Bussin suggests several reasons for not achieving the 50 percent return rate, including inaccurate and out-of-date polling data, absentee landlord/owners of rental properties who don't respond and increasing turnover of housing. This leads to numerous appeals to Community Council at a cost to the applicant of the non-refundable appeal fee of \$658.02, in addition to the initial non-refundable application fee of \$289.99.

Development of the Current Polling Requirement

Through the course of formulating and approving the harmonized front yard parking policies and Municipal Code regulations, the polling aspect came under considerable review. When Council considered the new Code Chapter at its meetings of June 27, 28 and 29, 2006 and July 25, 26 and 27, 2006 (Clause No. 1 of Joint Report No. 1 of the Planning and Transportation and Works Committees) the matter of polling was specifically referred to the General Manager with the request that he review the polling procedure with Members of Council and bring forward revised recommendations. All Councillors were canvassed at that time. The results were contained in a subsequent staff report (August 18, 2006), received by the Works Committee at its meeting of September 11, 2006 (Agenda Item No. 31).

The following outlines the development of the current polling provisions through this process:

Starting Point – Previous Municipal Polling Requirements:

Four former municipalities (Etobicoke, East York, Toronto and York) had programs for front yard parking under their Municipal Codes/By-laws. Of these, only the former City of Toronto required a neighbourhood polling component in connection with applications for front yard parking. Even then, polls were not conducted for “driveway widening” applications (i.e., where a curb cut already exists). The former Toronto polling provisions were:

- residential properties within 100 m or nearest intersecting street (whichever is less) are polled;
- poll results applicable for two years;
- no petition required to initiate poll;
- no minimum response rate;
- 50 percent plus one approval required, except Ward 29 where 60 percent approval required.

Initial Staff Polling Recommendations:

New harmonized provisions for front yard parking to be contained in a Municipal Code Chapter were initially advanced in a November 15, 2005 staff report. That report recommended that a polling requirement be extended to the other areas of the City, but would only be applicable if front yard parking did not already exist on the street block.

The proposed provisions, where polling would be applicable, were:

- residential properties to the nearest intersection are polled;
- only on street blocks where licensed front yard parking did not already exist;
- negative poll results applicable for two years;
- petition signed by at least 25 percent of eligible residents within the area to initiate a poll;
- a minimum response rate of 25 percent required for a positive poll;
- 50 percent plus one approval required.

Public Consultation, Community Council and Committee Input:

The joint Planning and Transportation and Works Committee, at its meeting of November 30, 2005, directed that the front yard parking proposals be subject of community consultations in each of the four Districts and that comments be obtained from Community Councils. Both the Etobicoke York and Toronto and East York Community Councils outlined concerns respecting polling and generally felt that the staff proposal would not provide adequate neighbourhood input to decisions authorizing this form of parking.

Final Recommendations and Approved Polling Provisions:

Taking into account the feedback received through public consultation and the specific concerns raised by Community Councils regarding polling, the final staff

report (May 19, 2006) refined the recommendations and introduced a more stringent polling regime:

- residential properties within 100 m or nearest intersecting street (whichever is less) are polled;
- poll results applicable for three years;
- petition signed by at least 25 percent of eligible residents within the area to initiate a poll (**amended to 50 percent**);
- a minimum response rate of 50 percent required for a positive poll;
- 60 percent plus one approval required (**amended to 50 percent**).

The Joint Planning and Transportation and Works Committee, at its meeting of May 30, 2006, made two amendments to the recommended polling provisions as noted above: the requirement for the initial petition increased to 50 percent, and the number of positive responses reduced to 50 percent.

Substantive changes were made to the polling parameters through the public consultation, Community Council, and Planning and Transportation and Works Committee reviews. Reflecting a general desire for more neighbourhood input, the new provisions extended polling to all areas, required polling in instances where a driveway ramp already existed (mutual driveways), introduced a petition requirement and set a minimum response rate. The initial staff proposal to carry out polling only if a licensed front yard parking pad was not already in existence within the block was deleted.

Conducting the Polls

Polls for front yard parking are subject to the parameters set out in Municipal Code Chapter 918 as discussed above and are carried out by the City Clerk in accordance with the requirements of Code Chapter 190 – Polling and Notification. This Chapter provides the framework for how the poll is initiated, acceptable ballots, voting eligibility, and compiling the polling list. With respect to the list, Section 190-4 requires the City Clerk's Office to "compile a polling list including names and corresponding addresses of those listed on the following documents as owners, residents and tenants of property located wholly or partially within the polling area:

- A. Current Returned Assessment Roll;
- B. Municipal Connect, Toronto Property System (TPS) or any other related geographic information system (GIS) developed using information from Municipal Property Assessment Corporation (MPAC) and City records; and
- C. Affidavit delivered to the City Clerk during the polling period in a form prescribed by the City Clerk and asserting that the affiant is an owner, resident or tenant of property located wholly or partially within the polling area."

Experience with New Polling Requirements

The chart below illustrates the return rate on front yard parking polls conducted by the Clerk since the new Code Chapter came into effect on April 16, 2007 up to May 16, 2008:

Total Number of Polls Conducted for Front Yard Parking	54		
<25% Response Rate	5	9 %	
25% to 50% Response Rate	28	52%	91%
>50% Response Rate	21	39%	

Under the new Code Chapter 918, staff have received 18 appeals to the various Community Councils due solely to not meeting the 50 percent ballot return rate required for polling. The total number of appeals for any criteria not being met, received under Chapter 918 up to August 31, 2008, is 69. This translates to 26 percent of the appeals heard by Community Councils due solely to the polling benchmark not being met.

Comparison of Polling Requirements for Other Parking Issues

By way of comparison, two other parking-related matters have polling requirements: establishment of on-street permit parking and commercial boulevard parking. In both cases, the respective by-laws establish a minimum ballot return rate of 25 percent for the poll to be considered positive. We note that a 25 percent return rate is also the default criteria established in Municipal Code Chapter 190 – Polling and Notification, when the issue-specific by-law does not stipulate a particular number.

Staff expect that with a reduction in the minimum ballot return to requirement to 25 percent, the number of front yard parking appeals received due to the benchmark not being achieved will be significantly reduced. This should allow staff to process other appeals and shorten the timelines for an appeal to reach Community Council.

Amend Polling Requirement

In view of the foregoing factors, staff are of the view that there is merit to reducing the required ballot return rate for front yard parking polls from the current 50 percent to 25 percent. Not only would this be more consistent with other similar polls (on-street permit parking, commercial boulevard parking and the default polling by-law requirement), it will introduce a greater fairness to applicants. It should also be kept in mind that these applications are subject to more stringent criteria in terms of setback, landscaped open space and other requirements under the new by-law. At the same time, Council's desire for neighbourhood input in the process is preserved.

Staff are also recommending that any applicant who has been denied a front yard parking license since the inception of the new Code requirement solely because the 50 percent ballot return rate was not satisfied (but the ballot did achieve at least 25 percent response and of those the majority were supportive), be granted the license, and the appeal fee be refunded. This will involve 18 applications.

CONTACTS

Andrew Koropeski, P.Eng.
Director, Transportation Services
Toronto and East York District
Telephone: 416-392-7714
Fax: 416-392-1920
Email: akoropes@toronto.ca

Joe Colafranceschi
Supervisor, Off-Street Parking, Right of Way Management
Toronto and East York District
Telephone: 416-392-7564
Fax: 416-392-1058
Email: jcolafra@toronto.ca

SIGNATURE

Gary Welsh, P.Eng.
General Manager

P:\2008\Cluster B\TRA\Toronto and East York\row\pw08089te.row