



**STAFF REPORT
ACTION REQUIRED**

**Street Promotions Regulations for Adjacent Sidewalks –
Yonge Dundas Square**

Date:	April 19, 2010
To:	Toronto and East York Community Council
From:	Director, Transportation Services Toronto and East York District
Wards:	Toronto-Centre Rosedale - Ward 27
Reference Number:	Te10044te.row

SUMMARY

The Yonge-Dundas Square Board of Management (the Board) has expressed concern regarding sampling, marketing and illegal vending taking place on sidewalks adjacent to the Square. The Board believes that such activities obstruct and encumber the sidewalks, particularly during crowded events, and that these also have a negative impact upon permitted vendors operating from licensed locations within the Square, thereby affecting the economic viability of the Square.

This report recommends the adoption of a by-law which prohibits sampling and marketing (referred to in the by-law as street promotions) on the public sidewalks adjacent to the Yonge-Dundas Square. The by-law (Appendix ‘A’) would contain an exception for the distribution of information flyers provided that the by-law is otherwise complied with.

RECOMMENDATIONS

Transportation Services recommends that City Council:

1. Authorize the introduction of an amendment to Municipal Code Chapter 743, “Streets and Sidewalks, Use of”, substantially in the form included as Appendix ‘A’ to this report to prohibit street promotions (as defined in the proposed amendment) on the sidewalks adjacent to Yonge Dundas Square, to come into effect thirty days after adoption by City Council, subject to such stylistic or technical adjustments as may be required by the City Solicitor; and

2. Authorize and direct all other appropriate City officials to take the necessary actions to give effect thereto, including the introduction of any necessary bills.

Financial Impact

There are no financial implications resulting from the adoption of this report.

ISSUE BACKGROUND

The Yonge-Dundas Square Board of Management is responsible for the marketing, programming, maintenance and overall operation of the Square on behalf of the City and in accordance with prudent business practices. Other than an annual contribution from the City, the operations of the Square are financed through the generation of revenues from on-site commercial vending and event permits, and sponsorships.

The Board has expressed concern regarding sampling, marketing and illegal vending activities taking place on sidewalks adjacent to the Square. The Board believes that such activities obstruct and encumber the sidewalks, particularly during crowded events, and also have a negative impact upon permitted vendors operating from licensed locations within the square, thereby affecting the economic viability of the Square.

Often-observed sidewalk sampling and marketing activities and equipment include: portable stands and various forms of product sample distribution; product-branded vehicles parked illegally on the public sidewalk; beverage coolers and appliances; beauty consultations; mobile advertising vehicles and equipment; pedi-cabs and rickshaws; and the distribution of promotional flyers.

Because these activities are promotional and do not involve the actual sale by retail of goods or services, they are not considered to be “vending” for the purposes of the City’s current vending by-laws.

In addition, the Board reports the regular presence of a competing tour bus business, or businesses, selling tickets from the adjacent public sidewalk and stopping tour buses adjacent to the Square on Yonge Street, just metres from the kiosk. Since these competing businesses are not subject to leasing costs, they create a significant disadvantage for the Square’s tenant tour business, which operates a ticket kiosk on the Square under a lease arrangement with the Board.

The Board has the authority to remove from the Square those persons who do not have a permit to operate and does so through the Square’s private security contractor. However, the Board has no authority to undertake such actions outside the Square’s limits, including the adjacent public sidewalks, where enforcement is undertaken by the City's Municipal Licensing & Standards and Transportation Services staff.

Existing Regulations

Currently, there are no specific regulations or prohibitions regarding product sampling or marketing on City sidewalks.

In the area of Yonge Dundas Square, sidewalk vending permits are subject to the regulations contained within Chapter 315 of the former City of Toronto Municipal Code, including provisions which restrict sidewalk vendors from locating within a certain distance from permanent businesses selling the same or similar products or services. The enforcement of sidewalk vending regulations, and the issuance of sidewalk vending permits, is the responsibility of the Municipal Licensing and Standards Division.

COMMENTS

Staff from Legal Services, Economic Development and Culture, Municipal Licensing and Standards, Transportation Services, Facilities and Real Estate, and the City Manager's Office, have considered the concerns articulated by the Board. Economic Development and Culture, and Facilities and Real Estate, which both hold ex-officio positions on the Board, agree that sampling, marketing and vending on the public sidewalk adjacent to Yonge-Dundas Square encumber and obstruct the sidewalks, creating potential safety issues, and threaten the economic viability of the Square.

The very mobile nature of present-day sampling and marketing activities and the frequency in which they occur and often re-occur, presents a considerable challenge for the Board and the City.

The recommended approach consists of two components. First, staff propose the enactment of a by-law, under the authority of the City of Toronto Act, 2006, and in accordance with Appendix 'A', for the purposes of prohibiting street promotions (as defined in Appendix 'A') on the sidewalks adjacent to the Square. This by-law will amend Municipal Code Chapter 743, Streets and Sidewalks, Use of, and will be enforced by Transportation Services.

The one exception to the prohibition will be the distribution of information flyers, provided that this is done in compliance with the proposed regulations (i.e. no placing of objects on the sidewalk, no obstruction of persons or entrances to adjacent property). Objects or vehicles placed or parked in contravention of the by-law may be seized and removed. Given the commercial nature of these activities, the City Solicitor intends to apply for ticket set fines sufficiently high enough (e.g. \$500) to act as a deterrent to activities done in contravention of the by-law.

Second, in conjunction with the enactment of the street marketing by-law provisions noted above, staff will identify and contact marketing firms so that they are made aware of the prohibitions respecting sampling and marketing on sidewalks adjacent to the Square. Signage advising of the prohibitions may also be considered for the area.

CONTACTS

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SIGNATURE

Peter Noehammer, P.Eng.
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ATTACHMENT

Appendix 'A' – Street Promotions Regulation

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