



STAFF REPORT ACTION REQUIRED

Amendments to Chapter 743, "Use of Streets and Sidewalks", of the Toronto Municipal Code - Consultation Plan

Date:	June 7, 2011
To:	Public Works and Infrastructure Committee
From:	Acting General Manager, Transportation Services
Wards:	All Wards
Reference Number:	P:\2011\Cluster B\TRA\EtobicokeYork\pwi110103-tp

SUMMARY

Effective management of a municipality's public street allowance network is a key responsibility and critical in ensuring public safety, coordination of a multitude of activities and installations, and protection of vital municipal and public utility infrastructure. The importance of this management intensifies in a complex and increasingly dense urban environment like Toronto.

A "Streets" by-law is the means by which the municipality manages its public rights-of-ways. Provisions provide the framework (in terms of criteria, application and permitting process, appeals and penalties) for all parties excavating; constructing; doing work; temporarily occupying; conducting various activities and events; enabling certain encroachments and maintenance considerations. A Streets by-law establishes activities that are permitted and prohibited within the road allowance.

Prior to amalgamation, the seven municipalities now comprising the City of Toronto all had separate, often dissimilar by-laws and policies governing activities within the public right of way. While a number of elements have already been updated and harmonized under Chapter 743 – Use of Streets and Sidewalks, of the City of Toronto Municipal Code, (including residential front yard parking, municipal road damage deposits, utility cut permit conditions, publication dispensing boxes, and street events), there are still many regulations relating to other significant, but frequently occurring activities within the public right of way, such as excavating, temporary street occupations, commercial/industrial boulevard parking, boulevard maintenance and encroachments, that remain subject to the old, disparate by-laws.

This assortment of municipal laws is a challenge to administer on a uniform basis, is subject to multiple interpretation, and can confuse the public who view these inconsistencies as both frustrating and inefficient. This report introduces draft amendments to Chapter 743 of the Toronto Municipal Code for review and discussion that create new consolidated sections to uniformly manage the approval and administration of activities such as temporary street occupations, street work, encroachments, sidewalks, walkways and driveways. These amendments also introduce a uniform enforcement and appeal process. The proposed provisions being advanced here accommodate some routine elements that currently require a permit and/or payment of fees as of right, subject to specified criteria. In addition, the provisions provide that property owners and occupiers of land abutting public rights-of-way take reasonable responsibility for maintaining the municipal boulevards adjoining their lots, specifically grass cutting and the maintenance of private landscaping features such as hedges, gardens and other specified encroachments. Finally, of note, provisions are proposed which prohibit dwelling or camping within a street allowance.

It is recommended that a public consultation process be initiated to gather further information and feedback. Staff propose to report back to Public Works and Infrastructure Committee with a recommended final draft by-law later this year, taking into consideration refinements that may emerge through the consultation process.

RECOMMENDATIONS

The Acting General Manager, Transportation Services recommends that:

1. City Council direct the Acting General Manager, Transportation Services to make the proposed amendments to Toronto Municipal Code Chapter 743, "Use of Streets and Sidewalks" available on the City's website for interested parties to provide feedback.
2. City Council direct the Acting General Manager, Transportation Services to organize four open houses, one in each Community Council district, to allow the public and Ward Councillors to ask questions about, and comment on, the proposed amendments.
3. City Council direct the Acting General Manager, Transportation Services to hold a consultation meeting with the city's Resident and Business Improvement Area associations.
4. City Council direct the Acting General Manager, Transportation Services to report back to Public Works and Infrastructure Committee by the end of 2011 on the results of this consultation process, and present a final draft Streets By-law for consideration and approval, incorporating any necessary adjustments arising from the consultation process.

Financial Impact

There are no direct financial impacts to the City arising from the adoption of the recommendations in this report.

COMMENTS

Need for Effective Management of Toronto's Street Allowances

The importance of Toronto's street allowance network (comprising pavements, sidewalks, landscaped and hard surfaced boulevards, other structures and the myriad of features contained therein), is highlighted on a daily basis. In addition to the most obvious demands of serving transit, pedestrian, traffic and goods movement, the road allowances provide vital utility corridors, serve as a stage for a vast array of community events, provide inviting places for public gatherings and amenities, and house innumerable ancillary elements associated with abutting private interests. With denser urban form and increasing demands on the finite street spaces, effective management and coordination of this key municipal resource is crucial to the economic and social well being of the City.

Current Situation

Prior to amalgamation, administering public road allowance was subject to the various by-laws and policies of the former municipalities that now comprise the City of Toronto. Referred to as "Streets" by-laws, this assortment of legislation continues to govern a variety of uses in public rights-of-ways. Each of the "Streets" by-laws of the former municipalities of East York, Etobicoke, North York, Toronto, York and Metropolitan Toronto differ significantly in format and the extent of regulation. Some activities are permitted in one or more of the former municipalities but prohibited in others. Others are delegated to staff for administration and approval, and if no policy or relevant by-law exists, staff must ask for Community Council's approval before an application can be approved.

Administering and complying with this diverse collection of municipal by-laws is difficult not only for the public and stakeholders, but for City staff who, depending on their location, need to be familiar with up to six different sets of by-laws. As stated above, many routine activities that could be delegated to staff for approval currently require authorisation from Community Council, diverting Council's resources from other, more important matters.

Since amalgamation, the City has harmonised a number of by-laws under Chapter 743 dealing with activities occurring in public road allowance such as residential front yard parking, publication dispensing boxes and street events; however, the majority of regulations relating to other significant right-of-way activities and encroachments remain as they existed in legislation enacted by the former municipalities. This report proposes additions to Chapter 743 that streamline these existing municipal statutes.

Formulation of Draft Streets By-law Provisions

The proposed provisions set out in this report will protect the interests of the City of Toronto, the community and utilities occupying the City's right of way.

In researching and drafting these proposed amendments, staff reviewed the existing by-laws and policies of not only the former jurisdictions that now comprise the City of Toronto, but a number of other Canadian municipalities. As part of our initial consultation process, Transportation Services staff discussed the proposed changes with representatives from the Toronto Association of Business Improvement Areas (TABIA) and the Toronto Public Utilities Coordinating Committee (TPUCC). Copies of drafts were circulated to City Divisions inviting comments for subsequent revisions.

Our paramount goal underlying these proposed revisions is to ensure public safety. In addition, the proposed provisions seek to increase efficiency by reducing the administrative burden for the public, municipal staff and Council. This is accomplished by providing a comprehensive and standardized regulatory regime dealing with the most common activities occurring within public highways, particularly encroachments, as well as working (excavating) in streets ("street work") and temporary street occupations.

It is emphasized that the City's public highways must not only provide for the safe movement of pedestrians and vehicles, but accommodate public and private services and other encroachments. These often conflicting priorities carry a substantial risk, not only for the public but for the municipality as well. Minimising this risk and ensuring public safety requires that the General Manager of Transportation Services have a range of authority to deal expeditiously with these activities, including the administrative and public safety issues that they generate on a daily basis.

Under the proposed regulations, staff would have delegated authority to approve applications that comply with the proposed criteria set out in the by-law. Activities that may not be covered by these proposed amendments, or that deviate from specified criteria or conditions established by the by-law, will require Community Council approval. This approach will reduce the administrative workload on City and Community Councils, since the range of right-of-way activities delegated to staff for approval is, while comprehensive, limited to issues that are commonplace and easily processed. For those situations where an applicant feels that redress by Council is necessary, the proposed by-law contains an appeal procedure.

These amendments contain "grandparent" clauses that recognise existing encroachments approved by the former municipalities. Current encroachments, including commercial boulevard parking, awnings/canopies and specific driveway designs remain exempt from these amendments, provided that they continue to comply with the terms and conditions of their original approvals and agreements; however, compliance with the new regulations is required when the property is redeveloped.

Appendix 1 provides a brief summary of the proposed amendments to each article of the proposed Streets By-law. Appendix 2 presents a summary of the proposed amendments compared to existing municipal legislation. Appendix 3 provides a copy of the proposed amendments in draft by-law form.

The proposed revisions will not modify existing legislation regulating encroachments such as boulevard cafés, buskers, vending or marketing, which are under the jurisdiction of the Municipal Licensing and Standards Division.

Proposed Consultation Process

The draft amendments presented in the document attached to this report will be posted on the City's website. This will provide opportunities for interested parties in all areas to provide feedback.

In addition to online consultation, it is recommended that Transportation Services staff hold four public open houses, one in the Community Council district. Meetings with the Ward Councillors, to present the proposed amendments and respond to questions and concerns, will precede each open house on request. Further consultation with the BIA's and Residents' Associations by way of a public meeting is also contained in the consultation plan.

Staff will report back to the Public Works and Infrastructure Committee before year end with the results of our consultation, presenting a draft by-law for consideration and approval.

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SIGNATURE

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ATTACHMENTS

Appendix 1: Description of Draft Articles – Chapter 743, Use of Streets and Sidewalks
Appendix 2: "Summary: Comparison of Existing and Proposed Legislation"
Appendix 3: "Proposed Amendments to Chapter 743, Use of Streets and Sidewalks"