



WALK TORONTO COMMENTS ON JC1.1: HARMONIZED BY-LAW AND FEES FOR SIDEWALK CAFÉS, PARKLETS AND MARKETING DISPLAYS

To: Members of the Licensing & Standards Committee and the Public Works & Infrastructure Committee

From: Walk Toronto (Steering Committee)

Date: Dec 3, 2017

Walk Toronto is a grassroots, volunteer pedestrian advocacy group that works to improve walking conditions and pedestrian safety in Toronto.

Recommendations

WALK TORONTO'S POSITION:

- **Walk Toronto supports City staff recommendations for the proposed Harmonized By-law and Fees for Sidewalk Cafés, Parklets and Marketing Displays.**
- **As a member of the Sidewalks for All coalition, Walk Toronto also endorses the coalition's recommendations, which have been presented in a [separate submission](#).**

SUMMARY:

Clear and consistent design guidance for pedestrian clearways provides safety and accessibility for everyone, regardless of age or ability. In particular, sidewalks that are sufficiently wide allow pedestrian commuters to walk as their main means of transportation, in turn reducing vehicular congestion, and accommodating Toronto's growing population.

Sidewalks, Walkability and Safety

Sidewalks are an essential piece of the city's infrastructure: they provide accessibility and safety for all pedestrians, including some of the most vulnerable road users (such as

seniors, children, and people with disabilities). In line with the City of Toronto's commitment to being an accessible city, our sidewalks should be prioritized for accessibility and walkability. Our sidewalks should be open and inviting to all, regardless of age or ability. In order to achieve this goal, sidewalks must accommodate people

- who are stationary (engaging in activities such as window shopping, conversation or sitting on a bench);
- moving at different speeds (including joggers, speed-walkers, commuters and children on bicycles);
- using different kinds of mobility devices and assistance (wheelchairs, scooters, walkers, guide dogs, regular and white canes); or
- pushing heavy objects (such as wheeled suitcases, strollers, and bundle-buggies).

A major contributor to the vibrancy of our streetscapes is the existence of safe, walkable, pedestrian-filled sidewalks – which get people through the city, as well as to neighbourhood amenities such as sidewalk cafés. **While patios and marketing displays have a place-making function and can enhance the vibrancy of streets, these and other potential sidewalk uses should be considered only after the pedestrian clearway is secured.** On most of Toronto's roadways, we put a priority on providing adequate space for vehicular traffic to travel; extra amenities such as on-street parking are secondary considerations. We certainly wouldn't allow a food vendor truck to park in a vehicular travel lane and spend the day there selling food. So too, pedestrians' needs should be prioritized on sidewalks; place-making add-ons like patios should only be considered if there is enough space available for pedestrians of all ages and abilities to walk safely and comfortably.

Sustainable Growth

Toronto is the fourth largest city in North America; between 2011 and 2016, the city's population grew 6.2%.¹ The downtown is swelling with a growing number of residents who use walking as their main mode of transportation. Just as the capacity of Toronto's roads is being strained by the high number of vehicles being driven throughout the city, many of Toronto's sidewalks are too narrow to comfortably carry the large volume of pedestrians who use them regularly for different purposes.

In the central core, new condos are attracting buyers because they allow buyers to walk to work. For convenience, let us call this "commuter walking." **Unlike more recreational forms of pedestrianism, commuter walking is all about efficiency: commuters like speed and require wide clearways so that they can safely pass people who are strolling and ambling.**

Unfortunately, it is difficult to expand the width of most downtown sidewalks, which were laid out in the days when the city's population was far lower and when sidewalk cafés

¹ <https://www.statcan.gc.ca/daily-quotidien/170208/dq170208a-eng.htm>

weren't in vogue. As a result, many streets in the inner core are experiencing chronic pedestrian congestion. As we all know, the City has launched an expensive campaign to combat vehicular congestion. Fortunately, solving pedestrian congestion costs far less to accomplish: it mostly requires arranging our sidewalks so that the positioning of patios, street furniture, planters, signs, etc., is thought through sensibly.

While the debate about congestion has focused on our city's roads, and significant measures have been implemented to alleviate road congestion, the growing pedestrian volumes on many of our sidewalks in the downtown and in some parts of the midtown have not received the same level of attention. Narrow and obstructed sidewalks have unintended consequences for vehicular traffic: congested sidewalks tempt able-bodied pedestrians to unsafely use the roadway to bypass blockages. This displacement can also push cyclists into the middle of vehicle lanes, in turn slowing down motor vehicle traffic. Streamlining our sidewalks to make walking easier will result in more trips being made on foot, and fewer by car, reducing overall congestion in the downtown.

Adequate Sidewalk Width

The pedestrian clearway must be wide enough to properly handle pedestrian volumes. Narrow or crowded clearways can be particularly uncomfortable, and even threatening, for seniors. People with disabilities are similarly affected – especially those with mobility or balance issues, who can stumble and fall if they are brushed by other pedestrians.

The Accessibility for Ontarians with Disabilities Act, 2005 (AODA) specifies a pedestrian clearway requirement of 1.5 metres. This is a province-wide, basic, **minimum** standard, which provides space for two wheelchairs to pass. Some voices are encouraging a “race to the bottom” that entails the adoption of no more than the AODA minimum standard. This ignores the intent of our Provincial accessibility legislation, which makes clear that any existing municipal by-laws, policies and standards that exceed the AODA shall prevail and not be diminished or lowered by the AODA minimum standard.²

The AODA minimum standard may be relevant for sidewalks in small towns, but it is not appropriate or adequate for busy Toronto streets. If we use highways as an analogy, it is obvious that the busier Toronto sections of an expressway such as the 401 require more lanes than those sections in rural areas, where there is far less traffic. Likewise, sidewalks on major, big-city streets need a wider clearway in order to carry the streams of pedestrians that are an everyday situation in Toronto.

That is why we support staff's recommendation for a minimum 2.1 metre pedestrian clearway for sidewalks on arterials/collectors, which allows one person to pass two people walking together. This width is not overly generous, and it will seem tight when a sidewalk fills with parents with children or infants in wide strollers; people with caregivers, mobility devices, white canes or guide dogs; and those with abundant shopping bags or just window-shopping.

² O. Reg. 191/11, s. 1 (2). <https://www.ontario.ca/laws/regulation/110191#BK1>

We also support staff's recommendation of a 2.5 metre clearway standard for specified downtown streets with sidewalk widths of at least 5 metres. This may be seen as a continuation of the City's existing practice of making upward adjustments for high-volume pedestrian areas. In the past, Toronto City Council has approved by-laws that establish special clearway minimums of between 3.0 and 3.6 metres for certain streets with exceptionally busy sidewalks.

Accessible and Wide Clearways Are Good for Businesses

Approximately 15% of the Canadian population has a disability. In addition, the proportion of seniors in our city is growing: 15.6% of Toronto's population is 65 years and older,³ and many of them may experience mobility, balance or cognitive issues. Crowded sidewalks also create problems for parents with strollers, for shoppers with bundle-buggies or an armful of bags, and for cyclists who are walking their bikes to ring-and-post lockups. Of course, people in these different demographics all share a few things in common: they eat and drink at cafés, and they shop. If a street with poorly laid out patios and merchandising displays does not offer these groups a welcoming, accessible and safe sidewalk environment, they will take their considerable business elsewhere – a factor that can potentially make the difference between profit and loss for café owners and merchants.

Designing for the Future

We should not allow ourselves to become fixated on problems we are experiencing in integrating sidewalk cafés into older, space-constrained streets as though things are set in stone. It is more productive to look at possibilities that are being opened up over the next few years.

The expansion of rapid transit and the implementation of the City's Avenues initiative will transform some suburban arterial streets. Large light rail projects, such as Eglinton Connects, will change suburban streetscapes, creating new opportunities for sidewalk cafés. This will diversify the choice of potential locations available to entrepreneurs who want to start up new cafés.

If we heed lessons from the downtown and opt for a city-wide pedestrian clearway width of 2.1 metres, we can ensure that future changes to the design of our streets will not create new bottlenecks for pedestrians in the suburbs. The same is true for brownfield developments in the waterfront, where planners are designing communities from scratch. We can develop new venues such as public squares and waterfront promenades that are optimized for generous patios and comfortable walking conditions.

³ Statistics Canada. 2017. Toronto, C [Census subdivision], Ontario and Canada [Country] (table). Census Profile. 2016 Census. Statistics Canada Catalogue no. 98-316-X2016001. Ottawa. Released November 29, 2017. <http://www12.statcan.gc.ca/census-recensement/2016/dp-pd/prof/index.cfm?Lang=E> (accessed December 2, 2017)

Of course, the sidewalk café harmonization initiative will be creating changes on our older streets too, and the City of Toronto should not be placing the entire burden on the café owners and landlords. **In some situations, the pedestrian clearway can be streamlined, expanded or straightened by relocating or realigning street furniture obstructions that the City has placed or sanctioned.** The location of garbage receptacles, benches, bicycle ring-and-posts, newspaper boxes, planters, and some signs is not sacrosanct. If pedestrian walking conditions can be improved by moving obstructions, then the City should use some of the licence fees it collects to fund this work.

Also, in reference to the downtown condos where so many of the aforementioned commuter walkers live, we should be planning new condo developments so that they are set back far enough from the street to provide generous space for patios.

Enforcement

Most municipalities in pre-amalgamated Toronto had pedestrian clearway width standards of 2.0 to 2.13 metres in their municipal codes since the 1980s or early 1990s. Although measurement criteria have not been entirely consistent, the requirements for sidewalk café owners have been widely known for decades – it’s not as if City staff just recently decided to impose tough new standards on the restaurant industry arbitrarily and without warning.

The goal of keeping the pedestrian clearway clear and free of obstructions that impede safe passage, at all times, requires dedicated enforcement. Currently, the “complaint based system” requires each and every sidewalk obstruction to be reported to 311. Such a system results in the majority of obstructions going unreported. This was confirmed by statistics contained in a presentation⁴ made by staff earlier this year:

- In 2015 Transportation Services did a site survey of about 570 café locations to assess compliance with the pedestrian clearway standards
 - Around 50% of existing cafés are already compliant
 - With 700 permitted cafés in Toronto, this means that around 350 cafés will need flexibility and new design options

To be blunt, **if 50% of cafés are already compliant, that means that the other 50% have been flouting the law. This statistic is appalling, and begs the question how restaurants that have been operating non-compliant patios have managed to renew their licences every year.** Undoubtedly, the sidewalk café licensing, inspection and enforcement system at present is dysfunctional, and it is imperative that the City regain control of the situation.

⁴ “Proposed Framework for Sidewalk Cafes and Additional Consultation.” Presentation made by Transportation Services and Municipal Licensing & Standards to PWIC, April 12, 2017. Page 29. <https://www.toronto.ca/legdocs/mmis/2017/pw/bgrd/backgroundfile-102863.pdf>

It is worth repeating that the clearway standard of approximately 2.1 m has been on the books in most of Toronto for at least a quarter of a century. In view of this fact, we consider the designation of the year 2025 as the deadline for bringing all sidewalk cafés into compliance with the harmonized by-law as being eminently generous.

Appeals

Patio appeals currently go to Community Councils. Walk Toronto strongly endorses the recommendation that the General Manager of Transportation Services deal with all appeals in regard to pedestrian clearway requirements using uniform, formal criteria. This protocol will depoliticize the process, and help ensure that the intent of the by-law is realized in an equitable and economically efficient manner, applied consistently across the city.