

March 4, 2019

To: The City Clerk, Toronto City Hall (via email)

From: Harbord Village Residents' Association

Submission Regarding Item EC 2.3:

Harmonized Bylaw and fees for Sidewalk Cafes, Parklets and Marketing Displays

With a request that options be generated to address pedestrian safety concerns with year-round sidewalk cafe enclosures, this is to express our strong support for the Proposed Harmonized By-Law for Sidewalk Cafes, Parklets & Marketing Displays.

Harbord Village Residents' Association (HVRA) supports the neighbourhood area from Bathurst Street to Spadina Avenue, and College Street to Bloor Street.

With College, Harbord and Bloor Streets passing through our neighbourhood, HVRA cares deeply about the vibrancy of our main streets.

And as a neighbourhood whose residents and visitors reflect the full range of ages and physical capabilities seen across Toronto, we are equally concerned with making our streets more accessible to local residents, visitors and to pedestrians of all abilities coming to/going through our neighbourhood.

The Staff Report speaks to the need to balance competing interests for scarce sidewalk space, and we believe our strong vested interest in business and pedestrian priorities puts us in a position to provide an assessment of the balance that the Harmonized Bylaw achieves.

From the business perspective, the Bylaw offer a number of very supportive features:

- a wide variety of new options for sidewalk cafes and marketing displays
- very beneficial treatment with respect to fees for occupying the public sidewalk
- grandfathering of existing cafe and marketing permits; and, albeit controversial,
- a new proposal for year-round cafe operation, as opposed to seasonal.

From the pedestrian perspective, the Harmonized Bylaw most critically provides:

- implementation of the long-promised Pedestrian Clearway, providing minimum standards for sidewalk comfort and accessibility across the City
- clear accountabilities for sidewalk occupancy permit holders, and new enforcement protocols to ensure compliance
- funding and resources to address accessibility impacts of grandfathered sidewalk cafes, over a three-year period
- reasonable provisions for cane detectability of sidewalk commercial installations

Reviewing the Bylaw from our shared business/pedestrian perspective highlighted two areas of concern.

Grandparenting of Existing Permits

With respect to the application of Pedestrian Clearway requirements to existing permit holders, we are, on balance, disappointed to see that the previous 2025 ‘full compliance date’ has been replaced with a number of open-ended ‘triggering’ criteria (including change of business ownership).

As the Report notes, the purpose of this approach is to help create ‘certainty’ for businesses, which it clearly does. But it does so at the cost of great uncertainty as to when pedestrians of all abilities can hope to fully benefit from the Pedestrian Clearway, and move Toronto closer to its commitment to creating a Barrier Free City.

As partial mitigation, the Report proposes a three year plan that would assist 150 existing permit holders on main streets comply with the Pedestrian Clearway requirements of the new Bylaw over the next three years, which we applaud. But clearly, a fixed end date would be preferable to pedestrians.

We have been informed by Staff that this issue is of great concern to businesses and a number of Councillors, and that this issue may directly influence support for these critical, harmonizing Bylaws. After much internal discussion, our position on this issue is as follows.

In the interest of preventing further delay in implementation of this important Bylaw, we accept the removal of the 2025 end date, and ask that Council ensures that the resources to carry out the proposed mitigation plan be approved as requested in the Report.

Annual versus Seasonal Storefront Cafe and Marketing Display Permits

We were surprised and concerned to learn that Staff were proposing to allow frontage-based cafes and marketing display enclosures to remain on the sidewalk year-round.

Combined with the grandfathering of existing permits that don’t meet Pedestrian Clearway requirements, this means that installations whose railings are *currently* an obstruction for only 7 months of the year, will now become a continuing challenge for pedestrians of all abilities, throughout the winter; a time when walking conditions are more hazardous, and outdoor cafe use is likely to be minimal, if at all.

And since the proposed Bylaw allows storefront cafes to push the Pedestrian Clearway to the back of the curb face, curbside snow piling by storefront cafe owners and bike lane plows will make the walking path adjacent to storefront cafe even more narrow and hazardous in winter.

Historically, pedestrians have expected to see cafe railings coming down in early November, at which time they were able to enjoy the clear, continuous, storefront “pedestrian clearway” that simplified walking during the snow and ice conditions of winter months. This has resulted from provisions in the *current* By-law, by which cafe railing/enclosure removal is mandated, if ineffectively enforced, by numerous references to the cafe “season”, and removal of railings when sidewalk cafes are not in regular daily use (*Municipal Code 313-336, Boulevard Cafes*).

The seasonal usage concept is also reflected in some aspects of the proposed Bylaw. Specifically, while railings for Storefront Cafes can remain in place year-round, all elements and fencing associated with Curbside Cafes (those not attached to the building face) must be removed from November 15 to April 14 inclusive.

While there have certainly been instances where railings remained in place over-winter, and Staff have reported problems with enforcing seasonal railing removal, *pedestrian movement and accessibility in winter were clearly enhanced by previous practices.*

The Report presents this unforeseen proposal as an initiative to “enhance Toronto’s business climate” by offering “**new** opportunities for winter cafe operations”.

But even with the current state of Toronto finances, this benefit is given with NO additional fee for this extended use of public space? And without a critical density of winter cafes as one sees in Quebec City, do we really expect to see standalone Storefront Cafes in use over the winter months? And with no material addition to street vibrancy, what justifies the impact of all of these little-used installations on pedestrian mobility and accessibility?

To mitigate the impact on winter walking, the Report speaks to cafe owner responsibilities for snow shovelling and salting, and penalties if this isn’t done. But the reality is it takes only one non-compliant cafe owner to make a block inaccessible to pedestrians with disabilities.

And all of the enforcement or pedestrian complaints won’t make the sidewalk as passively safe as it would be with railings removed for the winter season.

Summary

With the exception of the blanket proposal for year-round storefront cafe operation, Staff are to be congratulated on the excellent job they have done shepherding these Bylaws through a very challenging process. Pedestrians and businesses WILL benefit from adoption of these Harmonized Bylaws. Torontonians are indebted.

But we believe that pedestrians (and taxpayers) deserve better than an off-the-cuff recommendation to simply extend all storefront cafe permits to allow year-round operation. And that options need to be put forward for Council consideration, that will significantly reduce the pedestrian impact of the blanket move to year-round cafe installations.

We ask that the generally excellent Report be forwarded to Council for consideration, with the requirement that Staff present Council with options that address accessibility concerns with Clause 46, Seasonal Operation.

Please note that we are aware of, and would support, the seasonal permit option being proposed by the St. Lawrence Neighbourhood Association.

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