



WALK TORONTO COMMENTS ON EC2.3

Harmonized By-law and Fees for Sidewalk Cafés, Parklets and Marketing Displays

To: Members of the Economic and Community Development Committee

From: Walk Toronto (Steering Committee)

Date: March 5, 2019

Walk Toronto is a grassroots pedestrian advocacy group that works with various levels of government, community groups and citizens to improve walking conditions and safety in Toronto.

STAFF RECOMMENDATIONS

Walk Toronto supports City staff recommendations for the proposed Harmonized By-law and Fees for Sidewalk Cafés, Parklets and Marketing Displays. Although these changes are not perfect, we commend City staff for their efforts in striking a balance between maintaining the street vibrancy provided by sidewalk cafés, and improving accessibility for pedestrians. We believe that the harmonized by-law adheres to Complete Streets principles, treating sidewalk users, businesses and their patrons equitably.

PEDESTRIAN CLEARWAY STANDARDS ON SIDEWALKS WITH PATIOS

Walk Toronto strongly advocates for safe and accessible sidewalks, and also supports vibrant neighbourhoods. The two goals are compatible – in fact, the provision of wide, accessible pedestrian clearways is essential for businesses in attracting customers. Approximately 15% of the Canadian population has a disability; also, the proportion of seniors is growing, and many of them may experience sight loss, mobility, balance or cognitive issues. Unless they find a welcoming, accessible and safe sidewalk environment, they are likely to take their business elsewhere.

The proposed harmonized by-law will create gradual improvements for pedestrians. We are pleased to see in the report cane-detectable features that will provide guidance for visually-impaired people, as well as provisions for the pedestrian clearway, which should not have changes in direction of more than 20 degrees along a street block.

We also support staff's recommendation of a 2.5 metre pedestrian clearway standard for specified downtown streets with sidewalk widths of at least 5 metres, and of 2.1 for arterial or collector roads. We believe that a growing, bustling city like Toronto requires broader clearways than would be required in smaller towns. Although we would ideally like to see wider sidewalks on all streets – which allow everyone to get around safely, regardless of age or ability – we recognize that many of Toronto's sidewalks on local side streets may be narrower than 2 metres. For this reason, we accept the proposed 1.8 metre standard for the pedestrian clearway on local streets.

The staff report recommends devoting funds and support for clearway design, in order to help existing permit holders on main streets to comply with the new by-law. Going beyond this, we would like to remind staff that de-cluttering sidewalks should be a shared responsibility. In some situations, the pedestrian clearway can be streamlined, expanded or straightened by relocating or realigning street furniture obstructions that the City itself has placed or sanctioned. The location of garbage receptacles, benches, bicycle post-and-rings, 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.

GRANDPARENTING

We believe that having a deadline for compliance would be preferable over grandparenting existing permit holders. While we recognize that that grandparenting is a compromise that will eventually lead to harmonization and will achieve consistency in the long term, we do have concerns about the potential for public confusion in the short term. To mitigate this, we propose the creation of a searchable online database of all existing permit holders who are grandparented, as well as providing dedicated funding to resolve critical pedestrian clearway issues with grandparented patios, and clear accountabilities for permit owners.

APPEALS

Walk Toronto strongly supports the recommendation to change the delegation of authority to hear, review and make final decisions with regard to appeals, from the Community Councils to the General Manager of Transportation Services. This 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.

ENFORCEMENT

One of the main objectives of the new by-law is to enhance pedestrian movement and accessibility. Achieving this requires effective enforcement. Unless cafés and marketing displays are properly inspected and the new rules are consistently enforced, we run the risk that the City's dismal patio by-law enforcement record will be perpetuated in the new harmonized system. The report recommends creating temporary staff positions for enhanced application review, in addition to processing and business support for new and existing permit holders. This is all very well, but we are concerned that, without adequate permanent resources being allocated to enforcement, the situation regarding lack of compliance could get out of control.

WINTER ENCLOSURES AND THEIR IMPLICATIONS FOR PEDESTRIANS

While we support most of staff's recommendations, we are concerned about the potential implications for pedestrians of frontage-based, year-round patio enclosures and marketing displays, during the winter months. Very few permit holders operate sidewalk cafés continuously through Toronto's harsh winters. Most patio fences, railings and enclosures that are kept in place off-season serve no useful purpose – yet monopolize vital sidewalk space. Café elements that exist on a permanent basis can have a negative impact on the walkability of sidewalks during the winter. This is due to the snow and ice that can accumulate around them, significantly reducing the width of the pedestrian clearway and impeding the operation of snow plows.

In order to address these concerns, the staff report proposes a set of winter maintenance rules. In theory, permanent patio enclosures should pose few problems if permit holders are required to clear and remove snow from the sidewalk – as well as salt and sand the sidewalk to City standards. But in practice, we have observed that the City's enforcement of snow clearing standards is desultory. Consequently, we are not entirely confident that the addition of a new set of winter maintenance rules will be sufficient to ensure good winter walking conditions near frontage-based patios and marketing displays. Certainly the rules should remain in the by-law – but they need to be complemented by another measure.

DUAL PERMIT SYSTEM

We suggest that the City adopt a dual permit system similar to the one proposed by the St. Lawrence Neighbourhood Association. It would include the annual, full-fee permit that staff are recommending; in addition, we would like to see made available a warm season permit, with a reduced fee. Two classes of permits, one seasonal and one year-round, would give flexibility to business owners.

The granting of a cheaper seasonal permit would be contingent on the removal of unused enclosures, railings, and fences during the off-season – thus providing a financial incentive to free the sidewalk of obstructive patio elements throughout the winter months. The City wouldn't be forcing the owner of a grandparented patio to go to the trouble and expense of removing permanent fencing. But business owners would have that option; and, if they do remove the fencing during the snow season, they could qualify for a cheaper café permit.

We believe that the introduction of a dual permit system will result in the reduction of the number of café enclosures that are kept in place through the challenging winter months, thus improving sidewalk walking conditions – and it will do this in a gentle, non-mandatory way that will be acceptable to operators of sidewalk cafés.