

CaféTO - Update

Date: April 14, 2021

To: Executive Committee

From: General Manager, Transportation Services, Executive Director, Municipal Licensing and Standards, Acting General Manager, Economic Development and Culture

Wards: All

SUMMARY

The CaféTO program provides assistance to Toronto's restaurant and bar operators wishing to install cafés on City sidewalks and streets through a streamlined application process including waived fees, the provision of traffic safety plans and equipment for cafés in the curb lane and other city supports.

This report provides updates to key program activities including:

- Design, material and safety considerations for curb lane cafés
- Promoting expanded outdoor dining opportunities to suburban areas of Toronto
- Additional opportunities for retail businesses in the right-of-way

RECOMMENDATIONS

The General Manager, Transportation Services, the Executive Director, Municipal Licensing and Standards, and the Acting General Manager, Economic Development and Culture recommend that:

1. Executive Committee receive this report for information.

FINANCIAL IMPACT

There are no financial implications arising from the recommendation in this report.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the statement as identified in the Financial Impact section.

DECISION HISTORY

City Council, at its meeting of March 10, 2021, adopted a temporary use zoning by-law to ease restrictions associated with eating establishments, take-out eating establishments and recreation uses to permit outdoor patios on private property, under certain conditions, until April 15, 2022.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH21.7>

City Council, at its meeting of February 2, 3 and 5, 2021, approved an enhanced CaféTO program for expanded outdoor dining in the public right-of-way until April 14, 2022.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.EX20.6>

The Toronto Accessibility Advisory Committee, at its meeting of November 20, 2020, recommended that City Council direct the General Manager, Transportation Services in consultation with accessibility stakeholders to develop accessibility guidelines and workshops on the CurbTO and CaféTO program prior to the implementation of the programs in 2021.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.DI11.6>

Economic and Community Development Committee, at this meeting of November 12, 2020, adopted a report for information on Support for the Retail Sector.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.EC17.7>

City Council, at its meeting of October 27, 28 and 30, 2020, adopted a temporary use zoning by-law to ease restrictions associated with eating establishments, take-out eating establishments and recreation uses to permit outdoor patios on private property, under certain conditions.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.PH17.12>

City Council, at its meeting of October 27, 28 and 30, 2020, approved an extension of the CaféTO program, for sidewalk frontage and curbside cafés only, until April 14, 2021.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.EX17.7>

Executive Committee, at its meeting of September 23, 2020, requested the City Manager to report on lessons learned from the 2020 CaféTO, CurbTO and ActiveTO programs, and to include recommendations for modification to these programs for 2021.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.EX16.27>

On July 8, 2020, the Province of Ontario issued Ontario Regulation 358/20, being Ministerial Zoning Order to expand zoning permissions for outdoor patios in the City of Toronto, generally consistent with the June 29 and 30, 2020 request of City Council. The regulation expired on November 16, 2020.

On July 2, 2020, the Province of Ontario issued Ontario Regulation 345/20, which exempts a by-law that would authorize the temporary use of land for a restaurant or bar patio under Section 39 of the Planning Act from subsections 34 (12) to (14.3), (14.5) to (15) and (19) of that Act and paragraphs 4 and 5 of subsection 6 (9) of Ontario

Regulation 545/06. The effect of this regulation is that City Council may adopt a Temporary Use Zoning By-law to Expand Permissions for Outdoor Patios Page 3 of 8 for Bars and Restaurants temporary use by-law respecting a restaurant or bar patio without holding a statutory public meeting under the Planning Act and that such a by-law is not subject to appeal.

City Council, at its meeting of June 29 and 30, 2020 authorized the establishment of the CaféTO program, which facilitated expanded outdoor dining space in the public right-of-way.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.EX14.1>

City Council, at its meeting of March 27 and 28, 2019 adopted a harmonized by-law for sidewalk cafés, public parklets and marketing displays by establishing Toronto Municipal Code Chapter 742.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.EC2.3>

COMMENTS

CaféTO registration opened on Friday, February 26 and the first window of curbside café registrations closed on Friday, March 26. A subsequent registration window for curbside cafés began March 27 and is scheduled to close on April 26. At the time this report was submitted, 279 sidewalk cafés are approved and 722 curbside cafés are currently under review and will be installed between May 8 and the 2021 Victoria Day weekend (May 22 to 24), if they meet all registration, insurance, safety and accessibility criteria and pending public health regulations.

The CaféTO Guidebook was updated for the 2021 café season and is available for the public to view at www.toronto.ca/CafeTO. The Guidebook includes important information about guidelines and requirements to safely operate a café on the sidewalk and in the curbside lane, including enhanced information about key accessibility criteria. The CaféTO Guidebook also provides detailed information on expanding a patio on private property. A "who does what" guide that describes City divisional responsibilities and contact information is available on page 53 of the Guidebook.

CaféTO Design Considerations

Transportation Services was requested to support Business Improvement Areas (BIA) and individual businesses with CaféTO program improvements related to safety, materials and public realm enhancements.

Safety

CaféTO curbside cafés are set up in accordance with Book 7 of the Ontario Traffic Manual, which provides guidance for temporary conditions for road safety. Each curbside lane closure area requires an investigation by a traffic safety engineer and the drafting of a detailed traffic safety plan that specifies where road closure equipment must be placed.

In order to increase safety in the vicinity of the CaféTO curb lane closure areas, the traffic services consultant retained to generate the traffic safety plans for each location has been provided with a suite of safety mechanisms that they can deploy in site-specific contexts that may include additional measures to ensure a safe closure, including roads with speeds greater than 40 km/hr, roads with high vehicle volume and wider lanes, and roads with non-standard geometric design. Proposed measures include:

- Advisory speed limit reductions
- Increased deployment of concrete blocks
- Advisory "CaféTO Area Ahead" signage on the approach to curb lane closures
- Road stenciling (e.g. "Slow Down, CaféTO Area Ahead")

Staff will continue to explore additional opportunities for enhanced safety mechanisms throughout the café season as well as review procedures from other jurisdictions that are executing similar road closures for restaurant operations to ensure that CaféTO curb lane closures continue to be designed according to best practice.

Materials

Transportation Services has employed two methods of enhancing material options for the curb lane closure areas. The first approach is that this year's CaféTO Guidebook provides guidelines which allow café operators to build temporary fencing or platforms in their curb lane café in accordance with safety and accessibility requirements. In 2020, a restriction was imposed on this type of construction in curb lane cafés, although it is noted that many restaurants opted to enhance their café spaces with decorative elements in addition to city equipment. At the time of report submission, over 200 curb lane café applicants have requested permission to build a temporary platform and inspections for location feasibility and review of drawings and site plans are currently being conducted by staff. Staff also understand that some BIAs intend on erecting temporary decorative fencing in their catchment areas, employing uniform designs and installation techniques.

The second approach pertains to purchasing additional equipment to enhance the curb lane closure areas. For BIAs, an additional 1,000 planter boxes have been purchased to augment the existing 600 planter boxes purchased in 2020, for a total of 1,600 planter boxes available for program delivery. Economic Development & Culture has a grant available for plant material and maintenance for BIAs who opt to upgrade their curb lane closure equipment with planter boxes. Grant funding for this program was increased in 2021 to accommodate additional planter box supply.

Restaurant and bar operators outside of BIAs that are not constructing their own temporary fencing or platforms will be provided with the option of upgrading their linear closure equipment from candlestick pylons to white reflective plastic fencing, which the City will supply. This equipment will be closely monitored by staff throughout the season in order to determine its functionality and practicability. Should this equipment perform well, staff will investigate the feasibility of deploying the fencing as part of possible future iterations of CaféTO.

Extending CaféTO's Success to Suburban Areas

In response to City Council's direction to improve the success of the CaféTO program in suburban areas of the City where program uptake is low, a subcommittee of the CaféTO Task Force was convened to develop a plan. The subcommittee included staff from City Planning, Economic Development and Culture, Strategic Communications, Toronto Building and Transportation Services. A list of potential ideas was collected and staff worked with Scarborough Councillors, as requested by City Council, to gather any additional ideas and seek feedback on the subcommittee's work.

The feedback gathered from this consultation informed a comprehensive city-wide outreach strategy which has been extended to other areas of the city with the intent of amplifying information that will assist restaurant and bar operators with understanding permissions associated with expanded outdoor dining on the public right-of-way through the CaféTO program and via the Temporary Use By-Law for patios on private property. The strategy includes:

- Enhanced communication outreach efforts through various partners including industry and professional associations, Chambers of Commerce and other stakeholders as well as the City's newsletter distribution channels.
- Stand-alone literature that provides information about expanding patios on private property available for electronic or print distribution, including translation where required.
- Support for additional Councillor communications, including newsletter articles, a CaféTO promotional poster and graphics for social media posts.
- A restaurant and bar focused component of the ShowLoveTO marketing campaign that will be launched this summer.
- A Shop Local campaign under the ShowLoveTO program will have a focus on small businesses, which includes restaurants and bars.
- Social media posts containing information specifically geared to suburban communities from the City's social media accounts.
- A City-hosted webinar supporting restaurant and bar operators with specific information about program guidelines, timelines and participation requirements, available on the CaféTO website.

Work on the above strategy has begun and will continue throughout the 2021 outdoor dining season.

Marketing Displays

Staff were asked to explore opportunities to support retail businesses through the CaféTO program either by using CaféTO spaces at times where restaurants and bars are not open, or by using additional areas of the public right-of-way for retail.

Chapter 742 currently allows retail business operators to access the public right-of-way for expanded outdoor retail opportunities in the following ways, both of which have been promoted via the CaféTO Guidebook and to BIAs:

- Small frontage marketing displays, which are an as-of-right encroachment permitted under Chapter 742. The maximum size of these displays are 0.8 metres deep by 5.5 metres wide, if accessibility and safety conditions are met; and
- An expanded Marketing Display if a vendor wants to exceed the above dimensions, which requires a permit application.

Staff have explored options to extend the CaféTO program to unlicensed retail businesses but have determined that it is not possible at this time. Concerns centre on the fact that CaféTO participation is dependent on obtaining both an Eating Establishment business licence and the appropriate comprehensive liability insurance required to occupy the public right-of-way. There are insurance and liability implications for both the City and the restaurant operator in permitting another uninsured business to operate in the space permitted for their express use.

There are no plans at this time to create a new licence class for retail businesses in order to allow them to participate in the CaféTO program, which is a program designed to specifically support the restaurant and bar industry. Additionally, establishing a new program at this time will threaten the timely roll-out of expanded dining in the right-of-way based on the lack of staff resources to accomplish this task.

Information gathered through business licensing is used by the city to ensure compliance with insurance requirements, issue AGCO municipal clearance letters for the expanded service of alcohol and general compliance of all applicable law. As well, a business licence ensures that the City has appropriate tools to ensure compliance, where required.

In lieu of creating new program parameters, staff will work to identify additional resources to support the promotion of the currently available marketing display options for retail businesses via the development of appropriate communications materials and information sharing campaigns.

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