

Chapter 918 - Parking on Residential Front Yards and Boulevards - Technical Amendment

Date: March 15, 2022

To: Infrastructure and Environment Committee

From: General Manager, Transportation Services

Wards: All

SUMMARY

The purpose of this report is to respond to a request from Planning and Housing Committee, which was subsequently redirected through the Infrastructure and Environment Committee, to assess what changes can be made to the City of Toronto Municipal Code and/or to City processes to protect City Council's authority to regulate front yard parking.

Front yard parking is regulated by City of Toronto Municipal Code Chapter 918, Parking on Residential Front Yards and Boulevards (Chapter 918), under authority of the City of Toronto Act, 2006. In some parts of the geographical area of the former City of Toronto, Chapter 918 prohibits front yard parking. However, some individuals, in contradiction to the intent of the prohibition in Chapter 918, have been applying for a minor variance for a front yard parking pad that is entirely on private property.

Staff have identified a potential amendment that would provide primacy to Chapter 918, specifically section §918-3A. This approach would require a property owner within the boundaries of the former City of Toronto to obtain permission from the City for front yard parking under Chapter 918 and preclude the potential for a minor variance. It is hoped that this proposed technical amendment provides clarity to residents on the review and approvals process related to front yard parking.

In addition, it is being proposed that any front yard parking pads that, to date, have been approved through zoning or a variance in the geographical area of the former City of Toronto would be permitted to continue through an amendment to Chapter 918.

RECOMMENDATION

The General Manager, Transportation Services recommends that:

1. City Council amend § 918-3A of City of Toronto Municipal Code Chapter 918, Parking on Residential Front Yards and Boulevards, as follows:

- A. by deleting the phrase "or any other by-law provision"; and
- B. by inserting after the phrase "under this chapter" the phrase ", except as permitted under regulation 10.5.80.10(4), regulation 10.5.80.11(1), or regulation 10.5.80.11(2) of Zoning By-law 596-2013, as amended, or under Section 6(3) Part IV 1(e) of Zoning By-law 438-86, as amended".

The section would then read:

"A. No person shall park any motor vehicle in any front yard unless parking is authorized under this chapter, except as permitted under regulation 10.5.80.10(4), regulation 10.5.80.11(1), or regulation 10.5.80.11(2) of Zoning By-law 569-2013, as amended, or under Section 6(3) Part IV 1(e) of Zoning By-law 438-86, as amended."

2. City Council amend § 918-6 of City of Toronto Municipal Code Chapter 918, Parking on Residential Front Yards and Boulevards, by inserting new subsections C, D, E and F generally as follows:

"C. Subject to § 918-6E, if, prior to April 8, 2022, a variance to a City of Toronto zoning by-law was granted to permit a parking space located entirely in the front yard, the permission to park in the front yard continues without the need for a permit or licence under this chapter.

D. Subject to § 918-6E, if a complete application for a minor variance to a City of Toronto by-law is accepted by the Committee of Adjustment prior to April 8, 2022, and, where approval of that application is subsequently granted by that committee or a Local Appeal Body, as constituted under section 8.1 of the Planning Act, the permission to park in the front yard continues without the need for a permit or licence under this chapter.

E. The provisions of this chapter shall not apply to prevent front yard parking where a copy of a final and binding Notice of Decision or equivalent authorizing the variance to a City of Toronto zoning by-law granting parking solely in the front yard is filed with the General Manager of Transportation Services.

F. The permission granted pursuant to § 918-6C or D shall be governed by any conditions related to parking in the front yard contained in a decision of the Committee of Adjustment or Local Appeal Body, as constituted under section 8.1 of the Planning Act, approving the variance as long as the conditions of approval at the time of variance approval continue to be complied with and, further, the permission will apply to subsequent property owners unless any one or more of the approval conditions provide otherwise."

3. City Council authorize the City Solicitor to introduce the necessary bills to give effect to City Council's decision and City Council authorize the City Solicitor to make any necessary clarifications, refinements, minor modifications, technical amendments, or by-law amendments as may be identified by the City Solicitor, General Manager, Transportation Services, or Chief Planner and Executive Director, City Planning, in order to give effect to Parts 1 and 2 above.

FINANCIAL IMPACT

There are no current or known future year financial impacts arising from the recommendations contained in this report.

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

DECISION HISTORY

The Planning and Housing Committee at its meeting of November 17, 2020 requested the Chief Planner and Executive Director, City Planning and the General Manager, Transportation Services in consultation with the City Solicitor and other appropriate staff to report by March 2021 on what changes can be made to the City of Toronto Municipal Code and/or to City planning or other processes to protect City Council's authority to regulate front yard parking.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.PH18.3>

Since the proposed actions related to this matter all specifically amend City of Toronto Municipal Code Chapter 918, [Parking on Residential Front Yards and Boulevards](#), City Clerks have advised that it would be procedurally appropriate to direct this report through the Infrastructure and Environment Committee.

COMMENTS

A recent Toronto Local Appeal Body (TLAB) decision authorized a variance to permit a front yard parking pad which was entirely on private property, despite the regulation in Zoning By-Law 569-2013 that prohibits a parking space in the front yard and despite restrictions in Chapter 918. This decision, as well as similar decisions in the past by either Committee of Adjustment or TLAB, led to the request for staff to consider whether there is a way to ensure that City Council or a delegated committee of Council retains control over the decision to permit front yard parking pads and if this would require any changes to the Municipal Code, Zoning By-Laws or other city processes.

The interaction of Chapter 918 and the Zoning By-law can lead to differing interpretations and approaches when a proposal includes front yard parking combined with a parking deficiency with respect to the Zoning By-law. For example, Chapter 918 specifically prohibits the General Manager of Transportation Services from accepting front yard parking applications for front yard parking in specified wards within the former City of Toronto. However, when considering front yard parking with respect to zoning requirements, the Committee of Adjustment may or may not consider this Municipal Code regulation when evaluating the merits of a requested minor variance.

While the overall outcome of the current regulatory regime generally achieves the intended policy objectives, there have been situations that have resulted in outcomes

inconsistent with Council's intentions as expressed in Chapter 918. This situation is predominantly occurring within the geographical area of the former City of Toronto in wards where Chapter 918 expressly prohibits the General Manager from accepting front yard parking applications for front yard parking (the Moratorium Area).

Section 918-3A of Chapter 918 currently reads as follows: "No person shall park any motor vehicle in any front yard unless parking is authorized under this chapter or any other by-law provision."

Given the current wording in Section 918-3A, despite any restrictions that may be imposed through Chapter 918, if the Committee of Adjustment or TLAB grants minor variances to permit front yard parking, Transportation Services is then obligated to approve access to the front yard parking space by authorizing a corresponding curb cut.

Recommended Process Improvements

Amending section 918-3A to remove the phrase: "or any other by-law provision" would prevent a property owner within the geographical area of the former City of Toronto from utilizing a minor variance to authorize a front yard parking pad, thus defending Council's authority as intended under the Municipal Code. Overall, the result of this change would mean:

- Within the geographical area of the former City of Toronto, any front yard parking pad, whether solely located on private property, straddling private property and the municipal boulevard, and/or solely within the municipal boulevard would require approval from Transportation Services in accordance with the provisions of Chapter 918;
- Within the geographical area of the former City of Toronto, a minor variance alone could not be used for residential properties to obtain permission for a parking space in the front yard;
- Outside the geographical area of the former City of Toronto, residential property owners could still receive permission to park in the front yard wholly on private property by obtaining a minor variance; and
- Residential property owners could still receive permission for a licence to park on the municipal boulevard by obtaining a license from Transportation Services in accordance with Chapter 918.

It is further being proposed that section 918-3A be amended to reference certain regulations of Zoning By-law 569-2013 and certain provisions of Zoning By-law 438-86 to recognize by-law standards that permits parking in the front yard in certain specified circumstances

The resultant section 918-3A would then read as follows:

"A. No person shall park any motor vehicle in any front yard unless parking is authorized under this chapter, except as permitted under regulation 10.5.80.10(4), regulation 10.5.80.11(1), or regulation 10.5.80.11(2) of Zoning By-law 569-2013, as amended, or under Section 6(3) Part IV 1(e) of Zoning By-law 438-86, as amended.."

Staff believe that this change will strengthen City Council's authority and control over front yard parking through Chapter 918. Furthermore, this change will not impact any other provisions or applications of the Zoning By-law.

Transition and Implementation

The above-noted amendment, if adopted, could result in approximately 1,400 front yard parking pads that were previously approved through minor variance or rezoning to be non-compliant. Given the significant number of properties that would be affected, it would be practical to legalize front yard parking where, prior to the enactment of the by-law implementing the change to section 918-3A, a variance to a City of Toronto zoning by-law was granted to permit a parking space located entirely in the front yard or a complete application for a minor variance to a City of Toronto by-law is accepted by the Committee of Adjustment prior to the enactment of the by-law implementing the change to section 918-3A, and, where approval of that application is subsequently granted by that committee. It is anticipated that this report will be before City Council at its meeting scheduled for April 6 and 7, 2022.

Accordingly, a new subsection C, D, E and F should be added to § 918-6 generally as follows:

"C. Subject to § 918-6E, if, prior to April 8, 2022, a variance to a City of Toronto zoning by-law was granted to permit a parking space located entirely in the front yard, the permission to park in the front yard continues without the need for a permit or licence under this chapter.

D. Subject to § 918-6E, if a complete application for a minor variance to a City of Toronto by-law is accepted by the Committee of Adjustment prior to April 8, 2022, and, where approval of that application is subsequently granted by that committee or Local Appeal Body, as constituted under section 8.1 of the Planning Act, the permission to park in the front yard continues without the need for a permit or licence under this chapter.

E. The provisions of this chapter shall not apply to prevent front yard parking where a copy of a final and binding Notice of Decision or equivalent authorizing the variance to a City of Toronto zoning by-law granting parking solely in the front yard is filed with the General Manager of Transportation Services.

F. The permission granted pursuant to § 918-6C or D shall be governed by any conditions related to parking in the front yard contained in a decision of the Committee of Adjustment or Local Appeal Body, as constituted under section 8.1 of the Planning Act, approving the variance as long as the conditions of approval at the time of variance approval continue to be complied with and, further, the permission will apply to subsequent property owners unless any one or more of the approval conditions provide otherwise."

In view of the inherent complexities surrounding the interpretation and implementation of front yard and boulevard parking, and its close relationship to zoning, staff will also be exploring opportunities to improve both the public and staff's understanding and comprehension of the issues by:

- Providing clearer language and direction to Committee of Adjustment and Toronto Building customer service staff when advising applicants of the need for permission from Transportation Services;
- Outlining what licensing and/or application fees would apply to parking pads entirely on private property;
- Updating web site information to provide information to the public on the options available for Front Yard Parking applications including clearer language and definitions on the distinctions between front yard and boulevard parking; and
- Advising applicants that parking pads located wholly or partially on private property are subject to zoning regulations, including the provision of landscaping and soft landscaping.
- Assessing which elements of Chapter 918 may warrant additional review to ensure alignment with the city-wide Parking Strategy.

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SIGNATURE

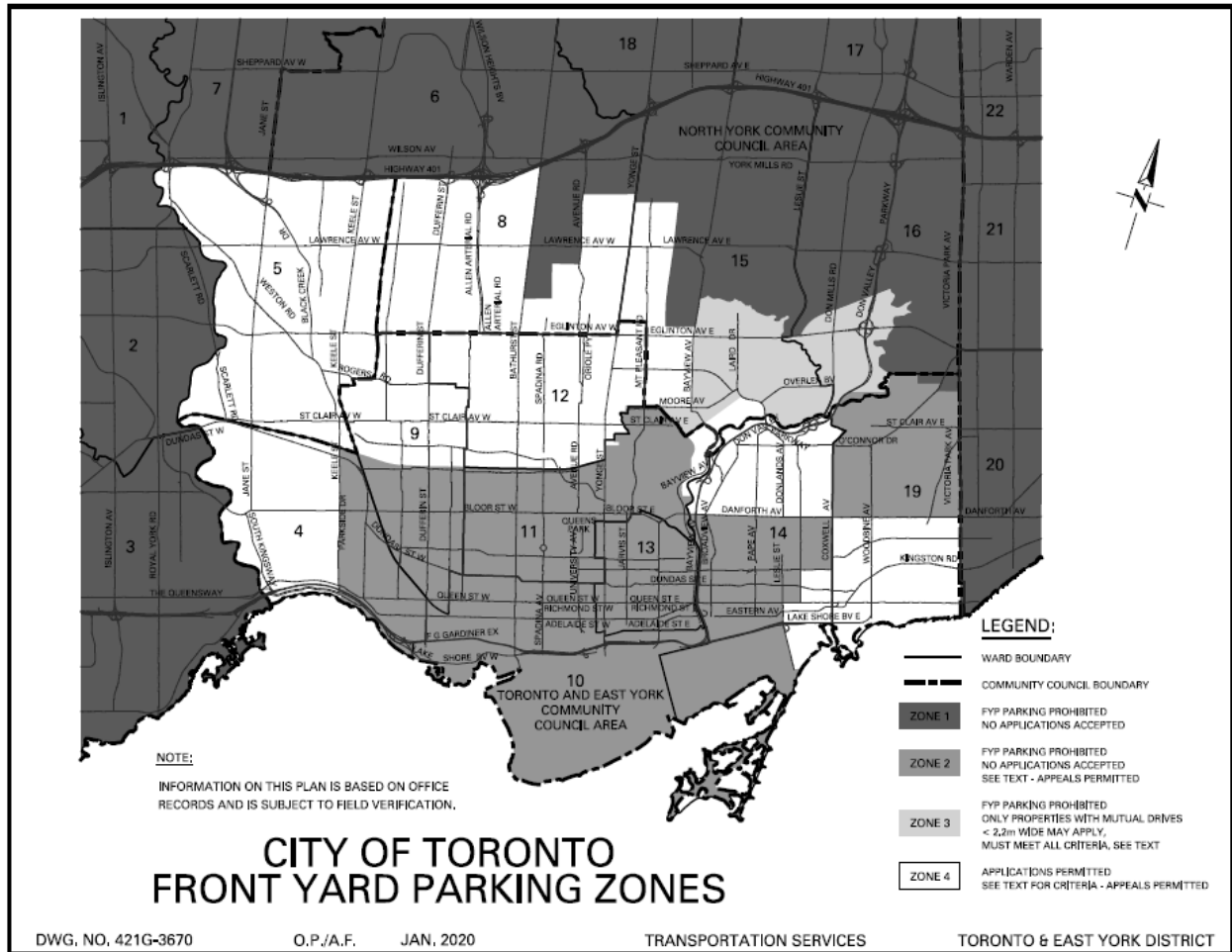
Barbara Gray
General Manager, Transportation Services

ATTACHMENTS

Attachment 1: City of Toronto Front Yard Parking Zone Map
Attachment 2: Current regulatory Regime for Parking in the Front Yard in the Former City of Toronto

Attachment 1

City of Toronto Front Yard Parking Zone Map



Attachment 2

Current Regulatory Regime for Parking in the Front Yard in the Former City of Toronto

Municipal Code Chapter 918, Parking on Residential Front Yards and Boulevards

Parking on residential properties within the City of Toronto is controlled through two legislative regimes: City of Toronto Municipal Code Chapter 918, [Parking on Residential Front Yards and Boulevards](#), and the City-wide Zoning By-law 596-2013, under regulation [10.5.80.10\(3\)](#).

Legal authority to regulate parking in the front yard is provided through the City of Toronto Act, 2006 ("COTA"). Section 113.2(2) of COTA provides that, despite section 71 of the Planning Act, in the event of a conflict between a by-law passed under COTA authorizing front yard parking and a by-law passed under the Planning Act (or a predecessor of that Act), prohibiting front yard parking, the by-law passed under COTA prevails.

"Front Yard" is defined in Chapter 918 as that portion of private property which is located between the front wall of a residential building on such private property and the abutting public highway; and which falls in the former City of Toronto ("Front Yard"). Accordingly, Chapter 918 regulates the parking of vehicles on residential Front Yards (private property only) only in the former City of Toronto, although it regulates parking on boulevards (city road allowance) in the whole of the amalgamated City of Toronto. This regulation is administered by Transportation Services.

Chapter 918 also defines "front yard parking" as "the parking of a motorcycle or private passenger motor vehicle, excluding trucks, vans, campers or other oversize vehicles, in a front yard where the parking is prohibited by a City by-law" and defines "front yard parking pad" as meaning "that portion of the boulevard and/or front yard which has been constructed in accordance with the provisions of this chapter and licensed for the purpose of parking a motor vehicle by the owner or occupant".

In the geographical area of the former City of Toronto, Chapter 918, among other things, specifically prohibits Transportation Services from accepting an application to park in the Front Yard of a residential property in certain specified wards located in the former City of Toronto. This is commonly known, or referred to, as the "Moratorium" area. The specific code chapter provision reads as follows:

"§ 918-5. Front yard parking prohibited.

B. The General Manager shall not accept a front yard parking application for front yard parking for residential properties located within the area of the former City of Toronto in Wards 14, 18, 19, 20, 27, 28 and 30."

Zoning By-law 596-2013

City-wide Zoning By-law 596-2013, under regulation 10.5.80.10(3), regulates parking standards and supply on residential properties (private property - within the property lines). This includes requirements regarding the parking of vehicles between the front wall of the building and the front lot or property line, commonly referred to as the front yard. Parking within this area of the property is referred to as front yard parking. The city-wide zoning prohibition on front yard parking was recently upheld in a decision of the Ontario Land Tribunal.

In general, Toronto's Zoning By-law 569-2013 reflects Official Plan policy and prohibits a parking space from being located in the front yard, unless the space is otherwise permitted under COTA through a permit issued by Transportation Services. Zoning By-law 569-2013 also relieves properties in some residential zones from the requirement to provide a parking space on site, when the lot in question is narrower than 7.6 metres and might therefore be challenged to provide parking beyond the main front wall of the house.

It is common that both the Zoning by-law and Chapter 918 be considered together when determining the justification for the installation of front yard parking on the property. This is particularly true when the front yard parking space straddles both private property and the city boulevard (road allowance). In many cases, front yard parking will require minor variances either in addition to or as a pre-requisite to obtaining approval from Transportation Services. In other cases, a property owner can obtain permission for front yard parking solely through Transportation Services or solely through Committee of Adjustment. The two processes occur under different criteria for decisions and are assessed under different tests. Issuance of front yard parking licenses under Chapter 918 is determined based on specific criteria set out in the Code Chapter, whereas minor variances are evaluated based on the four tests for minor variance in section 45(1) of the Planning Act.

Zoning By-law 596-2013

City-wide Zoning By-law 596-2013, under regulation 10.5.80.10(3), regulates parking standards and supply on properties subject to any of the zones in the Residential Zone category. Unlike the Municipal Code, zoning regulates only private property, and not the municipally owned boulevard, such that for zoning purposes the front yard is generally the portion of a property between the front wall of the building and the front lot line. Regulation 10.5.80.10(3) states that a parking space may not be in a front yard or a side yard abutting a street. Zoning By-law 569-2013 also relieves properties in some residential zones from the requirement to provide a parking space on site, when the lot in question is narrower than 7.6 metres and might therefore be challenged to provide parking beyond the main front wall of the house.

Notwithstanding its general prohibition on front yard parking, regulation 10.5.80.10(3) allows a parking space to be located in the front yard if the space is permitted under COTA through a permit issued by Transportation Services.

It is common that both the Zoning By-law and Chapter 918 be considered together when determining the justification for the installation of front yard parking on the property. This is particularly true when the front yard parking space straddles both

private property and the city boulevard (road allowance). In many cases, front yard parking will require minor variances either in addition to or as a pre-requisite to obtaining approval from Transportation Services. In other cases, a property owner can obtain permission for front yard parking solely through Transportation Services or solely through the Committee of Adjustment. The two processes occur under different criteria for decisions. Issuance of front yard parking licenses under the Municipal Code is determined based on specific criteria set out in the Code, whereas minor variances are evaluated based on the four tests for minor variance in the Planning Act.

Magnitude of the Issue

To illustrate the magnitude of the potential issue, City Planning staff reviewed minor variance applications in the three-year period from 2018 - 2020 and identified 116 applications heard by the Committee of Adjustment in that period within the boundaries of the former City of Toronto that included variances to permit a parking space in a front yard. Of these, 36 were approved and 59 were approved with conditions, either by the Committee of Adjustment or upon appeal to TLAB. In most of these cases, a specific variance was granted to permit a parking space in the front yard. Related variances may have been granted with respect to the dimensions of the proposed parking space or to the lack of a parking space sufficiently located on the lot. The number of minor variance applications for front yard parking specifically within the moratorium area was 21 for the three-year period; 17 were approved by the Committee of Adjustment and four were refused.