councilmeeting

From: Osgoode Hall Law Union <ohlawunion@gmail.com>
Sent: May 20, 2025 7:22 AM
To: Clerk
Subject: [External Sender] 2025, CC30.5 - Proposed By-Law Amendment to Provide Access to Social Infrastructure

Follow Up Flag: Follow up
Flag Status: Completed

Dear Mayor Chow, Councilors, and City Manager,

We are writing on behalf of the Osgoode Hall Law Union, a group of progressive law students interested in social justice at Osgoode Hall Law School. We are writing to express our strong opposition to the proposed “bubble” bylaw that would restrict protests near so-called “vulnerable institutions,” including places of worship, faith-based schools, and cultural institutions. This bylaw represents an unjustified infringement on constitutionally protected freedoms, threatens to silence marginalized voices, and has been advanced through a public consultation process that has lacked transparency, fairness, and meaningful engagement with residents.

Charter Freedoms Must Be Protected

The *Canadian Charter of Rights and Freedoms* guarantees the right to freedom of expression (s. 2(b)) and freedom of peaceful assembly (s. 2(c)).[1] These rights are essential to a functioning democracy, particularly for marginalized groups whose ability to protest is often a last—and vital—resort for achieving justice. The proposed "bubble" bylaw threatens Charter rights, as broad restrictions on expression and protest are often used to silence marginalized communities once enacted.[2] The Supreme Court of Canada has repeatedly affirmed that even speech considered offensive, distasteful, or controversial is protected under the *Charter* and must not be broadly restricted.[3] The Supreme Court also confirmed that there is no such thing as a right not to be offended in a democratic society.[4]

While Charter rights are not absolute, any limitation must be narrowly tailored, proportionate, and demonstrably justified.[5] Blanket “bubble zones” around entire categories of institutions—regardless of the nature or conduct of the protest—constitute overly broad and unjustifiable restrictions. City Council must acknowledge that disruption and discomfort are not side effects of protest; they are central to its function in drawing public and institutional attention to injustice. The sweeping restrictions proposed in this bylaw do not meet the minimal impairment standards required under section 1 of the *Charter*.

Overbroad Definition of “Vulnerable Institutions”

The City's description of "vulnerable institutions," as outlined in the consultation materials, is deeply problematic. It includes “places of worship, faith-based schools, and cultural institutions”—a categorization so expansive that it would render much of Toronto off-limits for protest activity. By sweeping in large portions of the city's public space, this vague classification would create a patchwork of protest-free zones. Public policy should focus on protecting people—not institutions. Such a bylaw would amount to a near-total ban on political expression, severely undermining residents’ ability to engage in meaningful protest and failing to meet constitutional scrutiny.

Police Already Have Broad Powers

The rationale for this bylaw is further undermined by the fact that police and courts already have extensive tools to manage and prevent harmful protest activity. Law enforcement can enforce order using common law powers and existing statutes, including laws against trespassing, threats, harassment, intimidation, and mischief.[6] Importantly, the

courts have cautioned against equating emotional discomfort with illegality. In *Bracken v Fort Erie*, the Ontario Court of Appeal held that subjective feelings of unsafety cannot serve as a legitimate basis for criminalizing peaceful protest.[7] Protest that makes someone "feel unsafe" is not by default unlawful—and should not be treated as such.[8]

Problematic Consultation Process

The City's public consultation process has been wholly inadequate. Members of our group attended both of the offered online consultations and were deeply troubled by their one-sided format. There was no opportunity for open dialogue or meaningful discussion. Participants could not speak, ask live questions, or engage with presenters or each other. Instead, the consultation process was limited to tightly controlled polls and a one-way chat, where submitted questions were not acknowledged or addressed. Attendees were not informed of how many others were present, effectively undermining any sense of collective engagement or solidarity and defeating the "public" portion of the public consultations; the entire process was deeply isolating.

The survey itself was also deeply flawed. It posed leading and loaded questions that limited participants' ability to express dissent. For example, during the first public consultation held on April 22, 2025, respondents were asked which institutions should be considered "vulnerable," but no option was provided to select "none." As a result, those who disagreed were forced to choose "other," thereby skewing the representation of opposing views. Moreover, the survey failed to inform the public that similar bylaws are currently the subject of constitutional challenges in other jurisdictions[9]—giving the misleading impression that they are legally sound and widely accepted.

Lack of Transparency and Communication

The City has failed to communicate its consultation process in a transparent or inclusive manner. No clear, publicly accessible information has been provided outlining the full scope of the City's plan. In-person consultations were reportedly invitation-only, shutting out many community members directly affected by the proposed bylaw. Moreover, there were only two public online consultations, which is entirely insufficient for a large city like Toronto. These consultations were not widely advertised through news channels, social media, or public forums. We attended both online consultations—held on April 22 and April 30, 2025—where opposition to the proposed "bubble" bylaw was overwhelmingly high, at 86% and 90% respectively.

Another significant concern with the proposed bylaw is the absence of Committee review. A bylaw of this nature should be referred to an appropriate standing committee for thorough examination, including an assessment of its scope, guiding principles, and potential impacts. Instead, the proposed bylaw is being advanced without the benefit of committee scrutiny, much-needed debate, and the opportunity for amendments based on committee recommendations. For a policy that would significantly curtail the fundamental rights of all Torontonians, this lack of transparency and accountability is deeply concerning. It undermines public confidence not only in the consultation process but also in the integrity of municipal governance as a whole.

Conclusion

This bylaw is both unnecessary and dangerous. It would criminalize peaceful protest, silence dissent, and disproportionately affect the very communities that most rely on protest to be heard. The result would be a City of Toronto that has lost its community spirit, in which residents can no longer freely live, work or play. Coupled with a flawed and exclusionary consultation process, it represents a troubling precedent for municipal overreach. We strongly urge City Council to reject this bylaw and reaffirm its commitment to upholding the fundamental Charter rights of all Torontonians.

Sincerely,

Osgoode Hall Law Union (OHLU)

[1] *Canadian Charter of Rights and Freedoms*, ss. 2(b) and 2(c).

[2] *R v Zundel*, (1992) 2 SCR 731, at p 765-6.

[3] *Irwin Toy Ltd. v Quebec (Attorney General)*, (1989) 1 SCR 927, at p 968.

[4] *Ward v Quebec*, 2021 SCC 43, at para 82.

[5] *R v Oakes*, (1986) 1 SCR 103.

[6] *Criminal Code*, RSC 1985, c C-46, ss. 264.1, 318, 423, 430.

[7] *Bracken v Fort Erie*, 2017 ONCA 668 at para 49.

[8] *Ibid* at para 51, 52.

[9] *R v Heather*, 2024 ABCJ 229.