

TRANSPORTATION COMMITTEE 104
REPORT 21
8 MARCH 2017

COMITÉ DES TRANSPORTS
RAPPORT 21
LE 8 MARS 2017

EXTRACT OF DRAFT
TRANSPORTATION COMMITTEE
MINUTES 22
1 MARCH 2017

EXTRAIT DE L'ÉBAUCHE DU
PROCÈS-VERBAL 22 DU COMITÉ
DES TRANSPORTS
LE 1 MARS 2017

NEW RIGHT OF WAY PATIO PROGRAM AND EVALUATION OF
STREETSIDE SPOTS PILOT PROGRAM

ACS2017-PIE-RHU-0002

CITY WIDE

REPORT RECOMMENDATIONS

That Transportation Committee recommend Council:

- 1. Approve the Right of Way Patio By-law, as set out in this report and attached as Document 1, and authorize the City Clerk and Solicitor, in consultation with the General Manager of Planning, Infrastructure and Economic Development, to make minor revisions and amendments to the By-law as may be required;**
- 2. Approve the amended fee structure for Outdoor (Right of Way) Patios, Café seating, and Parklets as set out in Document 2;**
- 3. Approve the phased-in application of the proposed Right of Way Patio By law whereby:**
 - i. Applications for new patios and parklets are subject to the proposed Right of Way Patio By-law; and,**
 - ii. Applications for the renewal of existing patios and parklets are subject to the provisions of the new By-law except for the requirements regarding the Accessibility Design Standards and pedestrian clearway, which are deferred for a one year transition period for both the Summer 2017 and Winter 2017-18 patio seasons, as described in the report;**

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4. Direct that staff bring forward to Transportation Committee in February 2018 a report on the progress made in designating the pedestrian clearway adjacent to all existing patios and the progress of those patios in meeting the relevant sections of the City of Ottawa Accessibility Design Standards.

Prior to considering the item, the following Technical Amendment was introduced:

MOTION TRC 1/22

Moved by Councillor S. Qadri

WHEREAS the report entitled New Right of Way Patio Program and Evaluation of Streetside Spots Pilot Program was distributed with the Transportation Committee agenda of 1 March 2017; and

WHEREAS the report was released without comments from the City's Legal Services and the Legal Implications section of the report indicated that the comments would be forthcoming; and

WHEREAS the Legal Implications section is a mandatory component of every report; and

WHEREAS the completed Legal Implications section, attached as Document 1 to this motion, should be inserted in the report before the report rises to Council;

THEREFORE BE IT RESOLVED THAT Transportation Committee approve the revised pages 20-22* to the report, attached to this Motions as Document 1, the Legal Implications Section, and replace it in the report to Council on 8 March 2017.

CARRIED

* See Appendix 1 attached

The following correspondence was received and circulated and copies are held on file:

- a. Action Sandy Hill letter dated 28 February
- b. Ecology Ottawa letter dated 28 February
- c. Lowertown Community Association letter dated 27 February
- d. Accessibility Advisory Committee memo dated 28 February
- e. C Leadman comment sheet dated 1 March
- f. F Gregory, Carleton Condominium Corporation #564 comment sheet dated 1 March

Linda Carkner, Program Manager, Right of Way introduced Linda Uhryniuk, Senior By-Law Administrator who provided a detailed overview of the item. A copy of her PowerPoint presentation is held on file. Also in attendance was Peter Grunstra, Senior By-Law Administrator – West, Court Curry, Manager, ROW, Heritage and Urban Design Services and Jake Gravelle, Program Manager, Bylaw and Regular Enforcement Services. Kevin Wylie, General Manager, Public Works and Environmental Services and Valerie Bietlot, Legal Counsel were also present to respond to questions.

The Committee received the following public delegations:

Lori Mellor, Preston Street BIA* was pleased with the new approach to seasonal billing but expressed some concerns with regards to the minimum sidewalk clearway as well as raised patios, especially for existing patios.

Peter Ferguson, Lowertown Community Association* highlighted the concerns contained in their letter to Councillor Fleury dated 27 February.

Joe Cotroneo, Pub Italia* was concerned about changes to existing patios and requested that such establishments be grandfathered from the proposed new by-law.

John Woodhouse, Walk Ottawa emphasized the need for straight and continuous clearways for pedestrians in areas where there are patios that abut the sidewalk.

Craig Pedersen supported grandfathering existing patios from the proposed new by-law.

Jasna Jennings, ByWard Market BIA was in support of grandfathering existing patios in the Market from the proposed new by-law.

Steve Monuk appreciated a reduction in the fees but recommended that April and October be made winter months for purposes of charging for the patio season.

Brian Karam, Elgin Area Business Association (EABA) suggested the by-law be amended to exclude pre-existing patios.

Norman Moyer* reiterated the comments contained in his written submission and urged that before giving away public space to private interests, the City should first ensure the safety of pedestrians and people with limited mobility.

Sherrill Owen, Lowertown Community Association encouraged keeping a clear pathway for pedestrians and discouraged any notion of grandfathering existing patios from the proposed by-law.

Following the public delegations, staff responded to questions from Committee members and addressed concerns resulting from their comments, including requests to grandfather existing patios and accessibility issues and the AODA. In particular, the Chair asked that staff report back prior to the Council meeting of 8 March, with regards to the suggestion to make April a Winter month in the fee schedule.

Following further discussion, the following Motions were presented:

MOTION TRC 2/22

Moved by Councillor C. McKenney

THEREFORE BE IT RESOLVED that Committee recommend that Council approve:

- 1. A waiver of Subsection 19(1) of the Noise By-law (By-law 2004-253, as amended) to permit the use of noise amplification devices on all types of ROW patios subject to the proposed ROW Patio By-law (Document 1); and,**
- 2. That Sections 7 and 8 of the proposed ROW patio By-law (Document 1) be struck out and replaced with the following Sections:**
 - 7. (1) A first-time application for a new ROW patio that is a front a curbside or a streetside patio with a proposed separation of less than 90m from a property zoned as residential or mixed residential/Commercial will be processed as follows:**
 - (a) Residents and residential property owners within the 90m distance, the local Business Improvement Area and any local community association registered with the City of Ottawa will be notified by letter of the proposed ROW patio, and provided with a copy of the proposed plan for the ROW patio, with the following conditions:**
 - (i) comments from residents and residential property owners must be received by the General manager within fifteen (15) working days of receipt of the letter; and,**
 - (ii) the Ward Councillor shall be informed of the**

application;

- (b)** If no objections to the proposed ROW patio are received, the General Manager may issue a permit in accordance with this by-law.
- (c)** An objection to an aspect of the ROW patio that meets this by-law will be considered as resolved.
- (d)** The General Manager shall use conditions of the permit to resolve objections, and an objection to an aspect of the ROW patio that can be enforced as a condition of the permit will be considered as resolved.
- (e)** Where one or more objections remain, the General Manager shall report to the City's Transportation Committee, which shall approve, approve with conditions, or refuse approval of the permit for the ROW patio, and,

 - (i)** the applicant and any objector will be notified of the time and date that the report is to be considered at Transportation Committee; and,
 - (ii)** the Transportation Committee decision shall be final.
- (2)** Any conditions or requirements related to noise or noise attenuation imposed on a pre-existing front, curbside or streetside patio in a permit granted by the City prior to the coming into force of this by-law shall continue and be imposed on any permit issued under this by-law for such a patio.

- (3) A ROW patio permit issued for a new patio within 30m of any property zoned as residential or mixed residential/Commercial shall include the provision that the ROW patio is required to close each night by 11:00 p.m., and that no patrons are permitted on the ROW patio after this time.
- (4) A ROW patio permit issued for a new patio within 30m of any property zoned as residential shall include the provision that audio speakers on the patio must be turned off by 11:00 p.m. nightly.
8. The General Manager will review any noise-related complaints by a property owner or a tenant of a dwelling on a property zoned as residential or mixed residential/Commercial concerning a ROW patio, and:
- (i) will advise the ROW permit holder of the complaints;
 - (ii) the permit holder shall have ten (10) days within which to improve the situation; and,
 - (iii) if the General Manager deems it necessary, may impose on the ROW patio permit in question one or more conditions to mitigate the noise complaint, including but not limited to:
 - a. requiring the ROW patio to close each night by 11:00p.m., and that no patrons are permitted on the ROW patio after this time;
 - b. requiring that audio speakers on the ROW patio must be turned off by 11:00 p.m. nightly; or

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- c. requiring noise attenuation measures be implemented in respect of the ROW patio.**

CARRIED

MOTION TRC 3/22

Moved by Councillor M. Fleury

THEREFORE BE IT RESOLVED that Committee recommend that Council approve:

- 1. That the definition of “pedestrian clearway” in Section 1 of Document 1 be struck out and that the following definition be substituted:**

“pedestrian clearway” means a clear and unencumbered area of the highway approved by the General Manager that is reserved for pedestrian traffic;

CARRIED

MOTION TRC 4/22

Moved by Councillor M. Fleury

WHEREAS report ACS2017-PIE-RHU-0002 will permit audio speakers to be on right of way patios; and

WHEREAS the use of audio speakers must respect the noise volumes of the Noise By-law and may be subject to other conditions on their hours of operations as set out in a patio permit; and

WHEREAS to enforce the provisions of this new By-law, By-law and Regulatory Services requires additional resources;

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THEREFORE BE IT RESOLVED THAT up to \$18,000 of the 2017 patio permit program revenue be made available to provide for seasonal enforcement staff resources for the 2017 summer patio season to augment enforcement of the Noise By-law and other applicable by-laws.

CARRIED

Subsequent to the above, the Committee CARRIED the staff recommendations, as amended, with the following directions to staff:

DIRECTIONS TO STAFF

1. Direct that when the Design Review Team considers applications for new patios that they consider urban design objectives for the street or street segment and where desired, seek a pedestrian clearway of more than 2.0 metres.
2. Direct that staff work to limit the number of exceptions to the City of Ottawa Accessibility Standards or this By-law and report on any of these exceptions proposed to be granted in February 2018.
3. Direct staff to track all additional costs of winter maintenance and report back to the Transportation Committee in February 2018.