

TORONTO MUNICIPAL CODE, STREETS AND SIDEWALKS

Chapter 313

STREETS AND SIDEWALKS

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[HISTORY: Adopted by the Council of The Corporation of the City of Toronto 1994-10-11 as By-law No. 1994-0774. Amendments noted where applicable.]

GENERAL REFERENCES

Obstruction of sidewalks near museums — See Ch. 68.
Right of entry — See Ch. 146, Art. III.
Fences — See Ch. 182.
Filling and grading — See Ch. 184.
Footpaths, bicycle lanes and pedestrian ways — See Ch. 194.
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Snow and ice removal — See Ch. 304.
Operation of snowmobiles on streets — See Ch. 306.
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Use of highways for cable television — See Ch. 324.
Trees — See Ch. 331.
Locking of vehicles — See Ch. 335.
Traffic and parking — See Ch. 400.

ARTICLE I Definitions

§ 313-1. Definitions.

A. As used in this chapter, the following terms shall have the meanings indicated:

BOULEVARD — That part of any street between the curb or edge of roadway and the street line, exclusive of the area covered by sidewalk.

BOULEVARD CAFE AWNING — A removable or retractable unenclosed temporary structure, affixed to the adjacent building, which is made of light material having a light metal or reasonably equivalent frame covered by fire-proof canvas or similar sail goods material, plastic, fibreglass or light aluminum which is erected over a licensed boulevard cafe area.

COMMISSIONER — The Commissioner of Public Works and the Environment and the City Engineer.

COMMITTEE — The City Services Committee.

DEPARTMENT — The Department of Public Works and the Environment.

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ELECTION SIGN — [Added 1997-08-21 by By-law No. 1997-0428; superceded by By-law No. 316-2000]

POSTER — A temporary notice of any kind, including but not limited to a notice, sign, advertisement, bill, handbill, leaflet, flyer or placard, but does not include a sign or banner sign for which a permit may be issued under Article IX or X. [Added 1997-09-23 by By-law No. 1997-0514]

STREET — A “highway” as defined in subsection 1(1) of the Municipal Act,¹ but does not include a highway that is a Metropolitan road.

TEMPORARY FULL CAFE ENCLOSURE — An enclosure as defined in the definition of “temporary partial cafe enclosure” except that the enclosure shall have the material between and affixed to the top rail of the fence and the roof awning on all sides of the structure. [Added 1997-10-06 by By-law No. 1997-0633]

TEMPORARY MARKETING ENCLOSURE [Repealed 1995-03-27 by By-law No. 1995-0241]

TEMPORARY PARTIAL CAFE ENCLOSURE — A structure erected on a licensed boulevard cafe area which consists of a retractable or removable canvas-type awning made with a light metal or reasonably equivalent frame affixed to the adjacent building, has canvas or similar sail goods material between and affixed to the top rail of the fence and the roof awning on the two (2) sides of the structure extending from the building, has canvas or similar sail goods material screens between and affixed to the top and bottom rails of the fence, has open entrances/exits which shall remain free, open and unobstructed at all times.

UTILITY POLE — For the purposes of Article XB, a utility pole, light pole or any pole of the Toronto Transit Commission. [Added 1997-09-23 by By-law No. 1997-0514]

B. As used in § 313-27C, the following terms shall have the meanings indicated:

TIRE SIZE:

- (1) Where visible, the size as stamped by the tire manufacturer on the outside wall of the rubber tire; or
- (2) Where no size stamped on the outside wall of the rubber tire is visible, then the diameter of the tire, as measured from the outside edge of one side of the

¹Editor’s Note: See R.S.O. 1990, c. M.45.

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rubber tire, mounted on a metal or other rim, straight across to the opposite outside edge of the same tire.

- B.1 **[Added 2002-08-01 by By-law No. 600-2002]**As used in § 313-36E, the following term shall have the meaning indicated:

EDCT — Urban Forestry, Economic Development, Culture and Tourism of the City.

- B.2 **[Added 2005-06-16 by By-law No. 555-2005]**As used in § 313-39D.1, the following term shall have the meaning indicated:

Ward 18 — Ward 18 is situated in south-west Toronto and is bounded by the CNR/CPR tracks to the south and west, Dovercourt Road to the east, and the CPR tracks to the north.

- C. As used in § 313-45B, the following terms shall have the meanings indicated:

NEWSPAPER — Those which are published regularly, but not less than monthly, which deal with matters of interest to the residents of the Municipality of Metropolitan Toronto and whose primary function is reporting news.

- D. **[Amended 1995-02-28 by By-law No. 1995-0203]** As used in § 313-44, the following terms shall have the meanings indicated:

BLENDED FORMULA — For each publication, the aggregate weight of recycled fibre content used in the total production of newspapers distributed from publication vending boxes or kiosks located in public street allowances, if the recycled fibre content, when expressed as a percentage of such total production over each twelve-month period, July 1 to June 30, is equal to or greater than the minimum percentage of recycled fibre required under § 313-44B(7). **[Amended 1996-04-29 by By-law No. 1996-0221]**

LOCATION — The portion of the street allowance on which one (1) or more publication vending boxes or kiosks are placed and, for clarification, each corner of the intersection of streets on which one (1) or more publication vending boxes or kiosks are placed comprises a “location.”

PUBLICATION VENDING BOX OR KIOSK — A container or other similar device for the dispensing of printed, written, photographic or other published material of any kind.

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- E. **[Added 1995-04-24 by By-law No. 1995-0277²]** As used in §§ 313-44.1 and 313-44.2, the following terms shall have the meanings indicated:

BUSKER — A musician or other performer.

SIDEWALK ARTIST — An individual who occupies a sidewalk area to create works of art for viewing by the public.

- F. **[Amended 1995-03-27 by By-law No. 1995-0249]** As used in Article X, the following terms shall have the meanings indicated:

BANNER SIGN — A canvas or similar fabric advertising sign which promotes a charitable, community, philanthropic or other public event.

ARTICLE II Prohibited or Regulated Activities³

§ 313-2. Obstruction or fouling of streets or ditches prohibited.⁴

- A. No person shall obstruct, encumber, injure or foul or cause or permit the obstructing, encumbering, injuring or fouling of any street.⁵
- B. No person shall place any obstruction in or obstruct or cause to be obstructed any ditch, culvert, drain or watercourse on any street.⁶

§ 313-3. Moving snow onto streets.⁷

No person shall move snow or ice from private property onto a street.⁸

§ 313-4. Cleaning of sidewalks.

Every occupant and, where there is no occupant, the owner of every house, shop, building, lot or parcel of land and every person having charge or care of any church, school or other public building

² Editor's Note: This by-law also redesignated former Subsection E as Subsection F.

³ Editor's Note: See also Ch. 400, Traffic and Parking.

⁴ Editor's Note: See also Ch. 309, Solid Waste, § 309-14, regarding garbage in streets.

⁵ Editor's Note: This subsection was passed under the authority of paragraph 1 of section 314 of the Municipal Act, R.S.O. 1990, c. M.45.

⁶ Editor's Note: This subsection was passed under the authority of paragraph 16 of section 207 and paragraphs 1 and 6 of section 314 of the Municipal Act, R.S.O. 1990, c. M.45.

⁷ Editor's Note: This section was passed under the authority of paragraph 1 of section 314 of the Municipal Act, R.S.O. 1990, c. M.45.

⁸ Editor's Note: See also Ch. 304, Snow and Ice Removal.

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fronting or abutting on any street where the sidewalks are paved shall cleanly sweep and keep free from obstruction, by dirt, dust, snow, ice and other encumbrances, the sidewalks in front of and about the premises.

§ 313-5. Theatre queues.⁹

The forming of theatre and other queues on any street or sidewalk shall be subject to the following regulations, and no person shall form, cause or permit the formation of a queue except as follows:

- A. No queue shall be comprised of more than two (2) files of persons.
- B. No queue shall be formed up so as to obstruct pedestrians or in any manner or location other than in a straight line adjacent and parallel to the curb or edge of the sidewalk closest to the roadway.
- C. A break shall be made in every queue at each street intersection and opposite the premises at the head of the queue.

§ 313-6. Climbing on fences, trees or poles.¹⁰

No person shall without proper authority climb on or over a railing or fence along any street or climb on any tree on any street or on any post, pole or structure lawfully erected on any street.

§ 313-7. Vandalism.¹¹

No person shall deface or disfigure any public or private building, wall, fence, railing, sign, monument, post, pole or other property in or adjoining any street by cutting, breaking or daubing with paint or other substance or shall in any other way injure them.

§ 313-8. Defacing signs prohibited.¹²

No person shall pull down or deface any sign or other advertising device and notice lawfully affixed in or along any street.

⁹Editor's Note: This section was passed under the authority of paragraph 1 of section 314 of the Municipal Act, R.S.O. 1990, c. M.45.

¹⁰Editor's Note: This section was passed under the authority of section 312 and paragraph 1 of section 314 of the Municipal Act, R.S.O. 1990, c. M.45.

¹¹Editor's Note: This section was passed under the authority of paragraph 140 of section 210 and paragraph 1 of section 314 of the Municipal Act, R.S.O. 1990, c. M.45.

¹²Editor's Note: This section was passed under the authority of paragraph 149 of section 210 of the Municipal Act, R.S.O. 1990, c. M.45.

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§ 313-9. Releasing balloons.¹³

No person shall release ten (10) or more balloons inflated with lighter-than-air gases within a twenty-four-hour period in any street.¹⁴

§ 313-10. Fires in streets.¹⁵

No person shall set fire to any shavings, chips, straw, leaves or other combustible matter for the purpose of consuming them in any street, and no person shall carry fire in any street except in a covered vessel or metal firepan.

§ 313-11. Fireworks.¹⁶

No person shall make or light any fire or bonfire or light, set off or throw any fire-cracker, squib, serpent or other noisy, offensive or dangerous substance or fireworks in any street.¹⁷

§ 313-12. Auctions.¹⁸

No person shall sell anything by auction in or upon any street.

§ 313-13. Shopkeepers vending on sidewalk adjacent to store.¹⁹

- A. No person who occupies a building adjacent to a street shall place or expose or permit to be placed or exposed goods, wares, merchandise or articles of any kind upon the street or hang, put up or permit any goods, wares, merchandise or articles of any kind outside the building so that they shall project over any portion of the street.²⁰

¹³Editor's Note: This section was passed under the authority of paragraph 1 of section 314 of the Municipal Act, R.S.O. 1990, c. M.45.

¹⁴Editor's Note: See also Ch. 255, Parks, Schedule A.

¹⁵Editor's Note: This section was passed under the authority of paragraph 49 of section 210 and paragraph 1 of section 314 of the Municipal Act, R.S.O. 1990, c. M.45.

¹⁶Editor's Note: This section was passed under the authority of paragraph 38 of section 210 and paragraph 1 of section 314 of the Municipal Act, R.S.O. 1990, c. M.45.

¹⁷Editor's Note: See also Ch. 190, Fireworks.

¹⁸Editor's Note: This section was passed under the authority of paragraph 1 of section 314 of the Municipal Act, R.S.O. 1990, c. M.45.

¹⁹Editor's Note: See also Ch. 315, Street Vending.

²⁰Editor's Note: This subsection was passed under the authority of paragraph 73 of section 210 and paragraph 1 of section 314 of the Municipal Act, R.S.O. 1990, c. M.45.

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- B. Neither Subsection A nor any other provision of this chapter shall apply to prevent shopkeepers from displaying goods upon the street opposite their respective places of business, if the goods do not occupy a width of more than forty-six hundredths (0.46) metre measured from the line of the building and are raised not less than sixty-one hundredths (0.61) metre above the level of the street, nor prevent any person using a portion of a street or sidewalk for a reasonable time during the taking in or delivery of merchandise or other goods, nor prevent the Commissioner from granting written permission, for such time as the Commissioner may consider advisable, to any person to construct a platform across a drain, gutter or watercourse on any street for facilitating the reception or delivery of merchandise or other goods.

§ 313-14. Vending on vacant lots adjacent to highways.²¹

No person shall place, expose or sell by retail on any vacant lot adjacent to any street or Metropolitan road any meat, vegetables, grain, hay, fruit, beverages, smallwares or other articles.

§ 313-15. Water on streets or sidewalks.²²

- A. Water from buildings or structures on private property. [**Amended 1995-06-26 by By-law No. 1995-0455**]
- (1) No person shall permit or cause water from any building or structure located on private property to escape upon, flow over or run across any sidewalk or street without the written permission of the Commissioner.
 - (2) Where any person causes or permits the runoff of water from any building or structure located on private property contrary to Subsection A(1), the Commissioner may provide written notice to the owner or occupant of the property advising them of the contravention of Subsection A(1) and requiring them to do any work which may be necessary to eliminate the runoff of water from private property across the street or sidewalk.
 - (3) Where a notice given under Subsection A(2) has not been complied with by an owner or occupant directed to do it, the Commissioner may perform the required work at the person's expense, and the costs may be placed on the tax roll and recovered in the same manner as municipal taxes.

²¹ Editor's Note: This section was passed under the authority of paragraph 73 of section 210 and paragraph 1 of section 314 of the Municipal Act, R.S.O. 1990, c. M.45.

²² Editor's Note: This section was passed under the authority of paragraph 140 of section 210 and paragraph 1 of section 314 of the Municipal Act, R.S.O. 1990, c. M.45.

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- B. No person operating a parking station, parking lot, used car lot or automobile service station shall permit or allow water used for washing or cleaning motor vehicles on or at the station or lot to escape upon, flow over, run across or upon any sidewalk or street.

§ 313-16. Poles and wires.²³

- A. No person, corporation or commission shall, without having lawful authority to do so, erect in or upon any street or public place any pole, post, pillar, wire or other construction until Council has authorized the person, corporation or commission to do so.
- B. The Commissioner is authorized and directed with workers and employees, and from time to time whenever it may be necessary, to proceed at once to dig up, cut down or otherwise remove from every street any and every pole, post, pillar, wire or other construction which has been or may be erected, put up or maintained or kept up by any person, corporation or commission on the street contrary to applicable law, including City by-laws.

§ 313-17. Moving of buildings.

No person shall move or cause or permit to be moved or assist in moving any building into, along or across any street or sidewalk without having first obtained a permit from Council under section 110 of the Highway Traffic Act.²⁴

ARTICLE III Permitted Temporary Use of Streets

§ 313-18. Temporary closing of streets.²⁵

The Commissioner may temporarily close to traffic any street or part of a street for any period during the construction, repairing or improvement of the street or portion of it or of any works, under, over, along, across, or upon the street or a portion of it.

²³Editor's Note: This section was passed under the authority of paragraphs 114 and 117 of section 210 and section 326 of the Municipal Act, R.S.O. 1990, c. M.45.

²⁴Editor's Note: See R.S.O. 1990, c. H.8.

²⁵Editor's Note: This section was passed under the authority of paragraphs 43 and 44 of section 207 of the Municipal Act, R.S.O. 1990, c. M.45.

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§ 313-19. Permits.

- A. Despite any other City by-law, the Commissioner may issue permits under this section that shall:
- (1) Permit the holder to use the street or part of it named in the permit for social, recreational, community and athletic purposes or a combination of these purposes for the period set out in it, which period shall not be more than twenty-four (24) hours, upon the terms and conditions set out; and
 - (2) Permit, for the period set out in the permit, the physical closing of the street or part of it to vehicular traffic if local access for residents and emergency vehicles is maintained.
- A.1. Use of streets for more than twenty-four (24) hours. **[Added 1997-07-14 by By-law No. 1997-0352]**
- (1) Despite Subsection A, the Commissioner may issue permits under this subsection that shall permit the holder to use the street or part of it named in the permit for a social, recreational, community, athletic or cinematographic purpose, or combination of such purposes, for the period set out in it, which period may exceed twenty-four (24) hours, upon the terms and conditions set out, where Council has approved such temporary closure with respect to a particular application.
 - (2) All other provisions of § 313-19 shall apply to a permit issued under Subsection A.1(1).
- B. An application on the prescribed form shall be made to the Commissioner at least eight (8) weeks prior to the date for which the permit is to be applicable and the application shall provide the following:
- (1) Name, address and telephone number of the applicant.
 - (2) Name and physical limits of the street or part of it for which the permit is sought.
 - (3) Date and time for which the permit is required.
 - (4) Purpose for which the permit is required.

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- (5) Certification that the majority of the owners or occupants of the residential and commercial properties abutting on the street or part of it for which the permit is requested have no objection to the permit being issued.
- (6) Certification that no charge shall be made for admission to any part of the street in respect of which the permit is sought.
- (7) Certification that alcoholic beverages shall not be sold or consumed within the street or part of it for which the permit is sought, unless specifically provided for under a licence issued by the Liquor Licensing Board.
- (8) Certification of compliance with the provisions and conditions of City or Metropolitan Corporation by-laws as they relate to the street or part of it for which the permit is sought and with Chapter 241, Noise, Article I.

C. Issuance or denial of permit; appeal.

- (1) The Commissioner shall issue a permit where the applicant complies with all of the provisions of this section unless the Commissioner receives written notice of opposition to the issuance of the permit, in which case the Commissioner shall refuse the application.
- (2) Where an application has been refused and an appeal has been filed under § 313-77, the Committee may direct the Commissioner to issue a permit where the applicant complies with all of the provisions of this section.

D. No permit shall be issued under Subsection C of this section until the applicant has:

- (1) Entered into an agreement by which the applicant agrees:
 - (a) To indemnify and save harmless the City from any actions, loss, costs, claims or damages arising from the use or physical closing of the street or part of it for which the permit is authorized to be issued.
 - (b) To maintain access for local pedestrian and vehicular traffic and for emergency vehicles.
 - (c) To place and remove barricades and to arrange for the restoration of the street to the condition which existed prior to the event taking place.
 - (d) To any other requirements which the City Solicitor or the Commissioner may deem necessary in the interest of the City.

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- (2) Paid a fee in the amount specified in Schedule A at the end of this chapter.
 - (3) Provided a certificate of insurance satisfactory to the Commissioner of Finance, in which the City is a named insured, providing public liability coverage, bodily injury coverage and property damage coverage in the amount of one million dollars (\$1,000,000.) and including a cross-liability clause.
- E. Following approval of the application, the applicant shall consult with The Metropolitan Toronto Police Force respecting the necessary police protection warranted by the permission granted and the physical closing of the street or part of it set out in the permit.

§ 313-19.1. Permit fee exemption. [Added 1996-04-29 by By-law No. 1996-0212]²⁶

Section 313-19D(2) does not apply to permits issued respecting applications approved for qualifying events for the 200 Years Yonge Street celebration.

§ 313-20. Excavations and openings.²⁷

No person shall break, excavate, dig up, tear up or remove or cause or permit the breaking, excavating, digging up, tearing up or removing of the soil of any street, or any planking, sidewalk, curbing, pavement or road structure of any sort forming the surface of any street, or construct any retaining or toe walls or make any excavation in or under any street or sidewalk for the purpose of building or otherwise, unless a permit to do so is obtained from the Commissioner, and the Commissioner may issue a permit on the following conditions:

- A. That the work so permitted shall be done under the direction of the Commissioner and the portion of street disturbed shall be replaced, relaid and made good to the Commissioner's satisfaction by the person obtaining the permit, or in the case of the surface of the road or sidewalk, by the Commissioner at the expense of the person.
- B. That the work so permitted shall not continue longer than is absolutely necessary in the opinion of the Commissioner.
- C. That the person obtaining the permit shall be responsible for all accidents that may occur to any person or property by reason of the permit and shall keep and maintain

²⁶Sections 2 and 3 of this by-law provided that the new §§ 313-19.1 and 313-25.1 will be repealed effective January 1, 1997.

²⁷Editor's Note: This section was passed under the authority of paragraph 102 of section 210, paragraph 3 of section 308 and paragraph 1 of section 314 of the Municipal Act, R.S.O. 1990, c. M.45.

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lights and other safety precautions as may be necessary for the protection and safety of the public.

- D. That the person obtaining the permit shall pay in advance a fee in the amount specified in Schedule A at the end of this chapter.
- E. That if the work so permitted includes the construction of a retaining wall, the applicant shall also comply with § 313-51.

§ 313-21. Piling or shoring.²⁸

No person shall leave in any street piling or shoring used in building operations after the building operations are completed unless the owner or lessee of the land shall have agreed in writing to indemnify and save harmless the City from any action, claim, damage or loss whatsoever arising from the leaving in the street of the piling or shoring or anything undertaken or neglected to be undertaken in connection with this and shall have, under the direction of the Commissioner:

- A. Removed all piling or shoring from the street to a depth of two and forty-four hundredths (2.44) metres or to a depth as in the opinion of the Commissioner shall, in the circumstances of the case, conform to good engineering practice.
- B. Backfilled any excavation in the street occasioned by the placing or removal of piling or shoring in it with granular material compacted to ninety-five per cent (95%) Proctor density.
- C. Restored the surface of the street to a safe and proper condition to the satisfaction of the Commissioner.
- D. Paid in advance the fee(s) in the amount specified in Schedule A at the end of this Chapter. **[Added 2000-10-05 by By-law No. 796-2000]**

§ 313-22. Temporary occupation of streets; permit.²⁹

- A. No person shall occupy any portion of a street by placing on it any fence, sidewalk, barricade or covered way or any machinery or material of any kind, except as permitted in this section, unless the occupation is in the ordinary course of public traffic on the street or is authorized by by-law of the City or otherwise.

²⁸Editor's Note: This section was passed under the authority of paragraph 102 of section 210, paragraph 3 of section 308 and paragraph 1 of section 314 of the Municipal Act, R.S.O. 1990, c. M.45.

²⁹ Editor's Note: This section was passed under the authority of paragraph 108 of section 210, paragraph 3 of section 308 and paragraph 2 of section 314 of the Municipal Act, R.S.O. 1990, c. M.45.

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- B. Any person desiring to occupy a portion of a street by placing on it any fence, barricade, sidewalk, covered way, machinery or material may apply to the Commissioner for a permit to occupy the portion of the street, and the Commissioner may issue the permit subject to the following regulations:
- (1) The permit may be issued only when it is required on behalf of an owner of lands abutting on the street that a portion of the street be occupied temporarily by placing thereon material that has been or is intended to be used in, or in connection with, the construction, repair or demolition of a building on the lands, or otherwise be occupied temporarily in connection with the applicant's use of the lands.
 - (2) The permit shall not authorize the occupation of a larger portion of the street or extend for a longer period of time than may be necessary in the opinion of the Commissioner, having due regard to the necessity of the applicant and the convenience of the public.
 - (3) The permit shall be in writing and shall indicate the portion of the street to be occupied and the time during which it is to be so occupied, and shall be subject to cancellation at any time without notice.
 - (4) Consent and waiver.
 - (a) The permit shall not authorize the occupation of any portion of the street beyond the limits of the frontage on it of the land in connection with the use of which the permit is required, unless the owners and occupants of the land abutting the portion of the street consent to the issuance of the permit and the occupation of the street under it, and waive all claims against the City for damages arising directly or indirectly from the issue or occupation.
 - (b) The consent and waiver shall be in writing, and shall be furnished to the Commissioner before the permit is issued.
 - (5) Instead of allowing occupation of a street for one (1) continuous period of time, the permit may provide that the occupation shall be for a portion of the day only during the time the permit is in force.
 - (6) No permit shall authorize or be deemed to authorize the placing of any material or the doing of anything so as to obstruct the free passage of water in ditches, drains, gutters, culverts or watercourses on any street.

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- (7) Before receiving a permit, the applicant shall agree in writing to indemnify and save harmless the City from any action, claim, damage or loss whatsoever arising from the issuing of the permit or the occupation of the street under it.
- (8) The person to whom the permit has been issued shall pay in advance, for any portion of the street allowance proposed to be occupied, a fee calculated in the amount specified in Schedule A at the end of this chapter.
- C. Subject to § 313-24B, in all cases where material or other obstruction has been placed on a street under the authority of a permit, the person to whom the permit has been issued shall, if any material or other obstruction is on the street during the hours between sunset and sunrise, place and maintain during those hours sufficient red lights to warn the public of the obstruction, whether the permit provides for occupation during daylight hours only or not.
- D. Maintenance. **[Amended 1997-09-22 by By-law No. 1997-0504; 1997-09-23 by By-law No. 1997-0514]**
- (1) The person to whom the permit has been issued shall keep any fence, barricade, hoarding or covered way neatly painted graffiti-free and maintained in a condition and manner satisfactory to the Commissioner.
- (2) Subject to Subsection D(1), the person to whom a permit has been issued with respect to a hoarding may permit the placing of posters as defined in § 313-1 on the hoarding by other persons in compliance with § 313-73.3A.
- E. Immediately, after the expiration of the time for which the permit has been issued, or after cancellation of the permit the applicant shall, at his or her own expense and without notice to do so, remove from the street any fence, barricade, sidewalk, covered way, machinery or material that has been placed on the street under the permit and restore the street to its condition before they were placed on it, and in the event of his or her refusing, neglecting or failing to do so, he or she shall be liable to the penalty provided by this chapter and, in addition, the Commissioner may cause any fence, barricade, sidewalk, covered way, plant or material to be removed and the street restored to its former condition at the expense of the applicant, and any expense incurred by the Commissioner in so doing may be enforced in like manner as taxes that are due and payable.
- F. This section does not apply in respect of any disposal bin placed entirely within the untravelled portion of a street.

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§ 313-23. Mixing concrete.

No person shall mix concrete, mortar or other substance of a similar character upon any street, except for building operations where the materials may be mixed upon the street area, exclusive of sidewalk, if the person has received a permit for this from the Commissioner and provides a platform of iron, wood or other suitable material to provide adequate protection to the street and to the public.

§ 313-24. Placement of disposal bins.³⁰

- A. Despite § 313-2 and subject to Subsections D and E, the occupation of the untravelled portion of a street by any disposal bin placed entirely on that portion shall be a permitted use of that portion of the street, except that no person shall injure or foul any portion of a street in connection with this permitted use.
- B. No person shall occupy the travelled portion of a street by placing on it any part of a disposal bin without having first obtained a permit under § 313-22B from the Commissioner, which permit shall be issued upon the additional condition that the bin is maintained in compliance with the requirements of Subsections C, D and E. **[Amended 1995-03-27 by By-law No. 1995-0249]**
- C. No person shall occupy the travelled portion of a street by maintaining on it any part of a disposal bin without having a flasher barricade or other comparable flasher warning device placed at each end of the bin from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise.
- D. No person shall occupy any portion of a street by maintaining on it any part of a disposal bin unless at each corner of the bin facing approaching traffic is affixed a Ministry of Transportation and Communications standard hazard marker sign WA-33 or TC-52 reflectorized to Canadian Specification Board Standard 62-GD-11 or such other comparable hazard marker as may be approved by the Commissioner.
- E. No person shall occupy any portion of a street by maintaining on it any part of a disposal bin unless the bin bears the name and telephone number of the operator or licensee.

§ 313-25. Sidewalk sales.³¹

³⁰Editor's Note: This section was passed under the authority of paragraph 108 of section 210, paragraph 3 of section 308 and paragraph 1 of section 314 of the Municipal Act, R.S.O. 1990, c. M.45.

³¹Editor's Note: This section was passed under the authority of paragraph 73 of section 210 and paragraph 3 of section 308 of the Municipal Act, R.S.O. 1990, c. M.45., and the City of Toronto Act, 1993 (No. 3).

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- A. Despite any City by-law, where the owner in possession or occupant of the ground floor of property lawfully used for commercial or industrial purposes which abuts on a sidewalk or boulevard, has entered into an agreement with the City on the terms and conditions set out below, the owner or occupant may use the portion or portions of the sidewalk or boulevard between the street line and a point measured two and thirteen-hundredths (2.13) metres from the curb of the roadway, or a further distance from the roadway as may be determined by the Commissioner, for the purpose of holding a sidewalk sale, if that use is in compliance with the agreement.
- B. An application for the holding of a sidewalk sale shall be made on the prescribed form to the Commissioner at least eight (8) weeks prior to the date for which the permit is to be applicable and the application shall provide the information set out in § 313-19B with necessary modifications.
- C. The Commissioner shall refer the application to the Committee and the Committee shall authorize the Commissioner to issue a permit where the applicant complies with all of the provisions of this section.
- D. No permit shall be issued under Subsection C until the applicant:
- (1) Has entered into an agreement by which the applicant agrees:
 - (a) To indemnify and save harmless the City from any actions, loss, costs, claims or damages arising from the use of any portion of the sidewalk or boulevard for which the permit is authorized to be issued.
 - (b) To restrict the frequency, length and duration of hours of operation as set out in the application submitted by the applicant under Subsection B.
 - (c) To secure the approval of the Commissioner of the design and location of displays utilized in conjunction with the sidewalk sale.
 - (d) To permit the Commissioner or any public utility to enter any portion of the sidewalk or boulevard proposed to be used for the purpose of the installation, maintenance and repair of pipes, cables, wires, poles and other installations.
 - (e) To provide and maintain the sidewalk or boulevard clearances to a minimum of two and thirteen hundredths (2.13) metre from the face of the curb for unimpeded pedestrian traffic or to a greater distance as may be required by the Commissioner.

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- (f) To restore any portion of the sidewalk or boulevard to the satisfaction of the Commissioner.
 - (g) To any other requirements which the City Solicitor or the Commissioner may deem necessary in the interests of the City.
- (2) Has paid a fee in the amount specified in Schedule A at the end of this chapter.
 - (3) Has provided a certificate of insurance satisfactory to the Commissioner of Finance, in which the City is a named insured, providing public liability coverage, bodily injury coverage and property damage coverage in the amount of one million dollars (\$1,000,000.) and including a cross-liability clause.
- E. No occupation of a portion or portions of the sidewalk or boulevard shall be permitted that may block or impair the entrance to any premises abutting the occupied area.
 - F. The Commissioner may suspend, for cause, any permit pending his or her report on it to the Committee and Council.

§ 313-25.1. Sidewalk sale permit fee exemption. [Added 1996-04-29 by By-law No. 1996-0212³²]

Section 313-25D(2) does not apply to permits issued respecting applications approved for qualifying events for the 200 Years Yonge Street celebration.

§ 313-26. Filming in highways.³³

- A. No person shall occupy any portion of a street in any manner connected with the making of any film or video-tape production or television broadcast except in accordance with a permit issued under this section.
 - (1) Any person desiring to occupy a portion of a street for a purpose referred to in Subsection A shall apply to the City's Film Liaison in accordance with the "Guidelines for Filming on Roads Under the Jurisdiction of the City of Toronto" (called in this section the "Guidelines").³⁴

³²Editor's Note: Sections 2 and 3 of this by-law provided that the new §§ 313-19.1 and 313-25.1 will be repealed effective January 1, 1997.

³³Editor's Note: This section was passed under the authority of paragraph 44 of section 207 and paragraph 3 of section 308 of the Municipal Act, R.S.O. 1990, c. M.45.

³⁴Editor's Note: Copies of the Guidelines are available from the Film Liaison.

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- (2) The City's Film Liaison, with the approval of the Commissioner, and subject to Subsection A(4), shall issue the permit for the period specified in it subject to the applicant for the permit:
 - (a) Agreeing to comply with this chapter, the Guidelines and any other City by-law;
 - (b) Agreeing to indemnify and save harmless the City from any action, claim, damage or loss whatsoever arising from the issuance of the permit or the use of the street; and
 - (c) Providing a certificate of insurance in accordance with the Guidelines and in form satisfactory to the Commissioner of Finance.
 - (3) Where the Commissioner refuses to approve the issuance of a permit, the City's Film Liaison shall refer the application to Council for its determination.
 - (4) Council may cancel the permission for the use of the street and the City's Film Liaison may suspend for cause any permission pending his or her report on it to the Committee and Council.
- B. Despite any other City by-law, where a permit has been issued under Subsection A, the holder of it may use the street or part of it named in the permit for the purposes and during the period specified in the permit, upon the terms and conditions set out in it and as contained in the agreement made under Subsection A.
- C. The Film Liaison may temporarily close the street or portion of it during the period specified in a permit issued under Subsection A, and, where a street or portion of it has been temporarily closed under this subsection, no person shall use the street or portion of it during the period of closure, except for pedestrian traffic or under the authority of the permit.

ARTICLE IV Sidewalk Regulations

§ 313-27. Horses and vehicles; Toronto Island.³⁵

³⁵Editor's Note: This section was passed under the authority of paragraph 42 of section 207, paragraph 119 of section 210, and paragraph 1 of section 314 of the Municipal Act, R.S.O. 1990, c. M.45.

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- A. No person shall ride, drive, lead or back any horse, carriage, cart, wagon, sled, sleigh or any vehicle over or along any paved or planked sidewalk, except at a regular crossing.³⁶
- B. Except where permitted under Chapter 194, § 194-5, no person shall place on or use, draw, haul or propel along or upon any sidewalk any carriage, tricycle, bicycle, wagon, cart, hand-cart, hose, hose-cart, truck or any hand-wagon, sled, sleigh or other vehicle used for the conveyance of any person, article or property upon any sidewalk, except persons lawfully repairing the sidewalk. **[Amended 1995-03-27 by By-law No. 1995-0249]**
- C. Subsections A and B do not apply to baby carriages, baby sleighs, children’s carts, wagons or tricycles operated by muscular power, or to shopping carts or wheelchairs, or to bicycles having each tire with a tire size no more than sixty-one (61) centimetres.
- D. Pedestrians shall have the right-of-way on a sidewalk, and no person shall ride upon or operate a bicycle permitted under Subsection C, roller skates, in-line skates, skateboard, coaster, toy vehicle or similar device on a sidewalk without due care and attention and without reasonable consideration for others using the sidewalk. **[Added 1995-03-31 by By-law No. 1995-0263;³⁷ amended 1995-06-26 by By-law No. 1995-0445]**
- E. Toronto Islands.³⁸
- (1) Subsection B does not apply to any sidewalk under the City’s jurisdiction on the Toronto Islands except that no person shall ride or operate any bicycle on any portion of the boardwalk on the breakwater, from Oriole Avenue, Centre Island, to Bayview Avenue, Ward’s Island, or on any portion of any sidewalk on any of the following streets or parts of streets:

Name of Street	Limits
Iroquois Avenue	From Manitou Road to St. Andrew’s Avenue
Lakeshore Avenue	From 850 feet west of the west street line of St. Andrew’s Avenue to the intersection of the sidewalk leading

³⁶ Editor’s Note: See also Ch. 400, Traffic and Parking.

³⁷ Editor’s Note: This by-law also redesignated former Subsection D as Subsection E.

³⁸ Editor’s Note: This section was passed under the authority of subsection 4(1) of the Toronto Islands Residential Community Stewardship Act, S.O. 1993, c.15.

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from the west shore of the Island,
immediately south of the Soldiers'
Outpost

Manitou Road

From the south end of the Manitou
Road Bridge to the Lakefront

- (2) No person shall ride or operate a bicycle on any Toronto Islands bridge under the City's jurisdiction.
- (3) Pedestrians shall have the right-of-way on a sidewalk, and no person shall ride upon or operate a bicycle, roller skates, in-line skates, skateboard, coaster, toy vehicle or similar device on a street or sidewalk on the Toronto Islands without due care and attention and without reasonable consideration for others using the street or sidewalk on the Toronto Islands. [**Amended 1995-03-31 by By-law No. 1995-0263**]

§ 313-28. Maintenance and repair of sidewalks.³⁹

A. Duty of owner to repair.

- (1) Every owner of land upon which there is erected a building used or intended to be used for commercial purposes shall keep in repair any portion of the land lying between the building and the street line that is used by the public as part of the sidewalk on the street.
- (2) When any portion of private land used by the public as part of the sidewalk on a street is in the opinion of the Commissioner in a state of disrepair so that it is dangerous to persons using the sidewalk, the Commissioner shall deliver to the owner of the private land a notice in writing requiring the owner to put the portion of land in repair within one (1) month, and the owner shall repair as required by the notice.
- (3) If any owner refuses or neglects to put the land in repair within one (1) month after the notice is delivered, the Commissioner may cause the portion of private land to be put in repair at the expense of owner.

B. The Commissioner shall forward to the City Clerk on or before the first day of April in each year a list of all properties in respect to which he or she has spent money under

³⁹Editor's Note: This section was passed under the authority of paragraph 170 of section 210 and section 326 of the Municipal Act, R.S.O. 1990, c. M.45

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this section which has not been paid by the owner of the property, together with a statement of the amount spent and unpaid in respect to each property, and the City Clerk shall enter in the collector's roll for the year against each property the amount so spent by the Commissioner and unpaid by the owner, and the collector of taxes shall collect the amount with the taxes for the year in the same manner as other municipal taxes.

ARTICLE V Boulevards

§ 313-29. Obstruction prohibited.⁴⁰

Except as otherwise permitted in this chapter, no person shall:

- A. Dig up or cause or permit the digging up of a boulevard.
- B. Drive on or travel over or cause or permit the driving on or travelling over a boulevard.⁴¹
- C. Place or cause or permit the placing of anything whatsoever to remain on a boulevard.
- D. Parking of vehicles. [**Amended 1996-03-05 by By-law No. 1996-0142**]

No person shall park a vehicle in an area licensed for boulevard parking except a person parking a vehicle in accordance with a licence for boulevard parking under § 313-40, 313-41 or 313-42.

§ 313-30. Use for civic purposes.⁴²

Nothing in this chapter shall prevent the Commissioner from altering, opening or otherwise using any boulevard for any civic purpose.

§ 313-31. Driveways and walkways.

⁴⁰Editor's Note: This section was passed under the authority of paragraph 3 of section 308 of the Municipal Act, R.S.O. 1990, c. M.45.

⁴¹Editor's Note: See also Ch. 400, Traffic and Parking.

⁴²Editor's Note: This section was passed under the authority of paragraph 3 of section 308 of the Municipal Act, R.S.O. 1990, c. M.45.

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Nothing in this chapter shall prevent the owner or occupier of any house or lot fronting or abutting on any street from making any necessary walk or roadway to his or her house or lot across the boulevard opposite to it, under the following conditions:

- A. The owner or occupier pays in advance a fee, in the amount specified in Schedule A at the end of this chapter, for a permit from the Commissioner to construct the walk or roadway.
- B. The owner or occupier constructs the walk or roadway to the satisfaction of the Commissioner, subject to the inspection of the Commissioner, if required.
- C. That where the application is made for the making of a walk or roadway across a boulevard which is opposite to two (2) or more houses or lots abutting on any street, no permit shall be issued unless the application has been considered by the Committee and approved by Council.

§ 313-32. Hedges.⁴³

To prevent persons crossing boulevards on foot at the corners of streets and damaging them, the owner or occupant of any house situated at the intersection of streets or the trustees or other persons owning or having charge of any church or other building similarly situated may, having first obtained permission from the Commissioner, erect a suitable hedge, approved by the Commissioner, between the house or building and the sidewalk, but the end of the hedge shall not be closer to the public walk than forty-six hundredths (0.46) metre.

§ 313-33. Fences and ornamental walls. [Amended 1995-01-17 by By-law No. 1995-0117; 1997-09-22 by By-law No. 1997-0504; 1997-10-06 by By-law No. 1997-0589]

- A. For the purposes of this section, the word “fence” shall not include a fence required under § 313-36 nor a fence for which a permit has been issued under § 313-22B, but shall include an ornamental wall.
- B. (Reserved)
- C. Permit for non-complying fence.
 - (1) Despite any City by-law, the owner of any house or lot fronting or abutting on any street may make application to the Commissioner for a permit to

⁴³Editor’s Note: This section was passed under the authority of paragraph 3 of section 308 of the Municipal Act, R.S.O. 1990, c. M.45, and the City of Toronto Act, 1993 (No. 3) S.O. 1993, c. Pr39.

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construct and maintain in any portion of the boulevard abutting a house or lot a fence, and the Commissioner shall approve an application which complies with the following criteria:

- (a) The fence is no more than one and nine-tenths (1.9) metres in height where it is not located beyond the front wall of the building and one (1.0) metre in height in front of the building and does not, in the opinion of the Commissioner, present a hazard to the public or interfere with any public utility use or proposed use.
 - (b) The fence is set back a minimum of forty-six hundredths (0.46) metre from the rear edge of the sidewalk or a minimum of two and one-tenth (2.1) metres from the curb where no sidewalk is present.
 - (c) The footings for the fence which are located within the street allowance do not exceed a depth of sixty-one hundredths (0.61) metre.
 - (d) Reinforcing steel or wire mesh is not used in the construction of fence footings.
- (2) Where the application does not comply with the criteria as set out in Subsection C(1), the Commissioner shall report on the application to the Committee and Council, providing details of the proposed design, including the materials to be used in the construction of the fence and the proposed location of the fence within the street, and Council may direct the Commissioner to issue a permit or may refuse the application.
- (2.1) Despite Subsection C(2), the Commissioner shall approve an application which does not comply with the criteria as set out in Subsection C(1) where:
- (a) The application is to maintain a pre-existing encroachment which is in compliance with Subsection C(1)(a) and does not present a hazard to the public or interfere with any public utility use or proposed use;
 - (b) The setback required in Subsection C(1)(b) shall cause interference with a tree, utility pole or other permanent installation; or
 - (c) The Commissioner is of the opinion that the structural stability of the proposed encroachment requires a footing depth greater than that permitted in Subsection C(1)(c).

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- (3) Where, in the opinion of the Commissioner, the granting of the application would present a hazard to the public or interfere with any public utility use or proposed use in violation of Subsection C(1)(a), the Commissioner shall refuse the application and the applicant may appeal the refusal in accordance with § 313-77.
- D. Any fence constructed prior to November 29, 1989, on any portion of a boulevard that was not in front of or flanking the house or lot, but which was in compliance with the other provisions of By-law No. 12519 as they existed on November 29, 1989, is deemed to have been constructed in accordance with the requirements of By-law No. 12519 as it existed prior to the passing of By-law No. 783-89.
- E. Any permit under Subsection C shall be issued only after the applicant has entered into an agreement containing the following terms and conditions and has paid the cost of preparation of the agreement in the amount specified in Schedule A at the end of this chapter:
 - (1) Where applicable, the fence shall not be located closer to a sidewalk than forty-six hundredths (0.46) metre or another location as the Commissioner deems necessary.
 - (2) The fence is not hazardous.
 - (3) The fence is constructed and maintained in good and proper repair and condition satisfactory to the Commissioner, including the immediate removal of all graffiti.
 - (4) (Reserved)
 - (5) The agreement is not transferable and immediately terminates on transfer of the ownership of the house or lot by the applicant.
 - (6) The agreement may be cancelled at any time by the City.
 - (7) The applicant shall always indemnify and keep indemnified the City against all actions, suits, claims and demands which may be brought against or made upon the City and against all loss, costs, damages, charges or expenses whatsoever which may be incurred, sustained or paid by the City in consequence of any encroachment permitted over and upon the public highway or otherwise by reason of the exercise by the applicant of the permission granted to maintain any encroachment over and upon the public highway, and the applicant grants to the City full power and authority to settle any actions, suits, claims and demands on such terms as the City may

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deem advisable and covenants and agrees with the City to pay to the City on demand all money paid by the City in pursuance of any settlement and also the sum as shall represent the reasonable costs of the City or its solicitor in defending or settling any actions, suits, claims or demands.

- (8) Other terms and conditions as the City Solicitor may deem necessary in the interest of the City.
- F. Despite any City by-law, where an application has been considered and refused by the Commissioner or by Council under this section, a further application for the same address or location shall not be considered within two (2) years from the date of the prior application.
- G. Subject to Subsections B and C, no person shall erect or maintain any fence within the limits of any street.
- H. Subsections C and G do not apply to prevent the maintenance of fences over one (1) metre in height in any portion of a boulevard under an agreement and any renewals of it containing the terms and conditions set out in Subsection E and entered into prior to August 12, 1985.
- I. All applications to construct and maintain a fence which may be approved by the Commissioner under Subsections C(1) and C(2.1) shall be circulated to the Ward Councillor for comment and, where objections are received, the Commissioner shall refuse the application and the applicant may appeal the refusal in accordance with § 313-77.

ARTICLE VI

Uses Requiring a Licence or Permit

§ 313-33.1. Objects and installations to be kept free of graffiti.⁴⁴ [Added 1997-09-22 by By-law No. 1997-0504]

All persons responsible for maintaining objects and installations which may be authorized by licence or permit under §§ 313-22, 313-24, 313-33, 313-34, 313-35, 313-37, 313-38, 313-44, 313-50, 313-51, 313-53, 313-55, 313-57, 313-64 and 313-67 shall ensure that those objects and installations are kept free of graffiti to the satisfaction of the Commissioner.

ARTICLE VI

⁴⁴Editor's Note: See also Ch. 264, Art. V, Removal of Debris and Graffiti by City Employees.

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Uses Requiring a Licence or Permit

§ 313-34. Marquees.⁴⁵

- A. Despite any City by-law, where the owner in possession or occupant of the ground floor of property lawfully used for industrial or commercial purposes which abuts on a boulevard and is located within an area designated C1, C2, C3, C1S or C4 in the applicable zoning by-law has entered into an agreement with the City on the terms and conditions in Subsection B, the owner or occupant may, for a period of one (1) year from the date of the agreement, use any portion of the boulevard abutting the property between the street line and a line forty-six hundredths (0.46) metre back of and parallel to the sidewalk for the purpose of erecting and maintaining a marquee in compliance with the agreement.
- B. The following are the terms and conditions of the agreement:
- (1) The owner or occupant shall submit to the Commissioner for approval detailed plans, including the framing mounting, mounting and materials to be used in any marquee to be placed within the untravelled portion of the street and, when approved by the Commissioner, the owner or occupant shall erect the marquee under the supervision and inspection of the Commissioner, but no part of the framework of the marquee, with the exception of the supporting poles or guy-wires, shall be less than two and sixty-three hundredths (2.63) metres above grade, and provided that no portion of the curtain shall be less than two and thirteen hundredths (2.13) metres above grade.
 - (2) The owner or occupant shall pay in advance an annual inspection charge in the amount specified in Schedule A at the end of this chapter for each marquee to be located on any portion of the boulevard.
 - (3) The owner or occupant shall indemnify and save harmless the City from any action, claim, damage or loss whatsoever arising from the use of the boulevard or anything undertaken or neglected to be undertaken in connection with the use.
 - (4) The owner or occupant agrees to permit the Commissioner or any public utility to enter any portion of the boulevard proposed to be used for the purpose of the installation, maintenance and repairs of pipes, cables, wires, poles and other installations.

⁴⁵Editor's Note: This section was passed under the authority of paragraph 3 of section 308 and section 310 of the Municipal Act, R.S.O. 1990, c. M.45., and the City of Toronto Act, 1993 (No. 3).

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- (5) Removal of installations.
- (a) The owner or occupant shall, at his or her own cost and expense, remove all installations from the boulevard upon thirty (30) days' notice in writing from the Commissioner to do so and shall not make any claim against the City on account of the removal and shall replace and restore the boulevard to a safe and proper condition to the satisfaction of the Commissioner.
 - (b) If the owner or occupant neglects, refuses or fails to do so within the time specified in the notice, then the Commissioner may remove all installations from the boulevard and restore the boulevard to a safe and proper condition and may charge the costs to the owner or occupant.
 - (c) The certificate of the Commissioner of the costs shall be final, and the City may recover the costs from the owner or occupant in any court of competent jurisdiction as a debt owing by the owner or occupant to the City.
- (6) The owner or occupant shall maintain the marquee in good and proper repair and condition satisfactory to the Commissioner, including the immediate removal of all graffiti. [Added 1997-09-22 by By-law No. 1997-0504]

§ 313-35. Temporary marketing enclosures.⁴⁶

- A. Definition; use of a portion of the boulevard under certain circumstances. [Amended 1995-03-27 by By-law No. 1995-0241]

- (1) For the purposes of this section, a “temporary marketing enclosure” means a temporary structure composed of the following elements and materials:

Elements	Construction Requirements
Frame	Steel, wood or reasonable equivalent
Removable wall panels	Fireproof canvas or similar sail goods, fibreglass, light aluminum, plywood wall panels with steel,

⁴⁶Editor's Note: This section was passed under the authority of paragraph 73 of section 210, paragraph 3 of section 308 and section 310 of the Municipal Act, R.S.O. 1990, c. M.45., and the City of Toronto Act, 1993 (No. 3).

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	aluminum or vinyl siding, glazed wall panels, vinyl coated chain link panels (insulation optional)
Roof covers	Plastic, fibreglass, light aluminum, plywood with asphalt shingles (insulation optional)
Doors	Roll-up type, folding doors, retractable metal grills, removable glass doors
Electrical wiring and lighting	Electrical wiring in accordance with the Electrical Safety Code
Heating	Electric panel board, radiant or gas
Roof skylights	Variable shapes
Glazing	Removable glazed panels
Insulation	Fire retardant rigid foam

- (2) Despite any City by-law, where the owner in possession or the occupant of the ground floor of property which may be lawfully used for industrial or commercial purposes and which abuts on a boulevard has entered into an agreement with the City on the terms and conditions in Subsection B and a suitable number of official signs have been erected and continue to be erected, the owner or occupant may use any portion of the boulevard between the street line and a line forty-six hundredths (0.46) metre back of and parallel to the sidewalk for the display and sale of merchandise, including the use of a temporary marketing enclosure for that purpose, if that use is in compliance with the agreement.

B. The following are the terms and conditions of the agreement:

- (1) The owner or occupant shall pave and maintain any portion of the boulevard to the complete satisfaction of the Commissioner.
- (2) The owner or occupant shall submit to the Commissioner for approval detailed plans, including the framing, mounting and materials to be used in any awning, temporary marketing enclosure or similar temporary installation proposed to be placed within the untravelled portion of the street and, when

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approved by the Commissioner, the owner or occupant shall erect the temporary marketing enclosure or similar temporary installation under the supervision and inspection of the Commissioner.

- (3) Display stand design.
 - (a) The owner or occupant shall submit to the Commissioner and the Medical Officer of Health, for their approval, designs of display stands, including materials to be used.
 - (b) The display stands shall be constructed of wood with epoxy resin paint, stainless steel, galvanized metal, plastic fibreglass, aluminum or steel with baked enamel finish and shall be designed so as to maintain the merchandise a minimum of sixty-one hundredths (0.61) metre above grade and so as to ensure that the area under the merchandise is clear and unencumbered at all times.
- (4) The owner or occupant shall pay in advance an annual charge per square metre for any portion of the boulevard proposed to be used as required under this section.
- (5) The owner or occupant shall pay in advance an additional annual charge for each awning, temporary marketing enclosure or similar temporary installation to be located on any portion of the boulevard.
- (6) The owner or occupant agrees to permit the Commissioner or any public utility to enter any portion of the boulevard proposed to be used for the purpose of the installation, maintenance and repair of pipes, cables, wires, poles and other installations.
- (7) The owner or occupant shall indemnify and save harmless the City from any action, claim, damage or loss whatsoever arising from the use of the boulevard or anything undertaken or neglected to be undertaken in connection with the use.
- (8) Removal of installations.
 - (a) The owner or occupant shall at its own cost and expense remove all installations from the boulevard upon thirty (30) days' notice in writing from the Commissioner to do so and shall not make any claim against the City on account of the removal and shall replace and restore the boulevard to a safe and proper condition to the satisfaction of the Commissioner.

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- (b) If the owner or occupant neglects, refuses or fails to do so within the time specified in the notice, then the Commissioner may remove all installations from the boulevard and restore the boulevard to a safe and proper condition and may charge the costs to the owner or occupant.
 - (c) The certificate of the Commissioner of the costs shall be final and the City may recover the costs from the owner or occupant in any court of competent jurisdiction as a debt owing by the owner or occupant to the City.
 - (9) The owner or occupant shall maintain the temporary marketing enclosure in good and proper repair and condition satisfactory to the Commissioner, including the immediate removal of all graffiti. **[Added 1997-09-22 by By-law No. 1997-0504]**
 - ⁴⁷(9) **[Added 1998-07-31 by By-law No. 553-1998; amended 1998-10-30 by By-law No. 797-1998]** The owner and occupant shall ensure that no goods are displayed or sold within the licensed portion of the boulevard except goods which are the same or similar to those sold as part of the primary business carried on within the abutting premises occupied by the owner or occupant.
- C. Despite any City by-law, where an application has been considered and refused by the Commissioner or by City Council under this section, a further application for the same address or location shall not be considered within two (2) years from the date of the prior application.
- D. Fees and charges.
 - (1) The owner or occupant shall pay in advance to the City a non-refundable administration, survey and inspection fee in the amount specified in Schedule A at the end of this chapter.
 - (2) A licence issued under this section shall be issued on a yearly basis (April 1 to March 31), and the owner or occupant shall pay in advance an annual charge per square metre for any portion of the boulevard to be used for the purpose of the display and sale of merchandise, including the use of a temporary marketing enclosure for such purpose in the amount specified in Schedule A at the end of this chapter calculated for the following areas:
 - (a) Area 1, being an area composed of:

⁴⁷Editor's note: technical amendment required to change second para (9) to (10).

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- [1] The area bounded by and including Spadina Avenue, Spadina Crescent, Bloor Street West and East, Sherbourne Street, Lower Sherbourne Street and the Lakefront, excluding Area No. 2.
 - [2] The area bounded by and including Spadina Avenue, Dundas Street West, Bathurst Street and College Street.
 - [3] Yonge Street, from Bloor Street to North City limit.
 - [4] St. Clair Avenue East and West, from Avoca Avenue to Avenue Road.
 - [5] Eglinton Avenue East and West, from Mount Pleasant Road to Duplex Avenue.
- (b) Area 2, being an area bounded by and including York Street, University Avenue, Dundas Street West and East, Victoria Street, Colborne Street, Church Street, The Esplanade, Yonge Street and the Lakefront.
 - (c) Area 3, being any portion or portions of the boulevard proposed to be used within any area not in Area 1 or Area 2.
- (3) The owner or occupant shall pay in advance an additional annual charge for each awning, temporary marketing enclosure or similar temporary installation to be located on any portion of the boulevard in the amount specified in Schedule A at the end of this chapter.
- E. Maintenance costs. **[Added 1995-09-18 by By-law No. 1995-0560]**
- (1) Where an owner or occupant, or the employee or agent of the owner or occupant, fails to maintain any portion of the boulevard to the satisfaction of the Commissioner as required by Subsection B(1) and the agreement, the Commissioner shall provide the owner or occupant with a notice requiring that the area be cleaned to the satisfaction of the Commissioner within twenty-four (24) hours of the date of the notice and stating that failure to do so may result in the work being done by the City and a cost of forty dollars (\$40.) for each cleaning of the location charged to the licence holder.
 - (2) Failure to comply with (3) three written notices issued under Subsection E(1) shall disentitle the licence holder to further notices, and the Commissioner

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shall be authorized to undertake all further cleaning as necessary and charge the cost to the licence holder.

- (3) No licence issued under this section shall be renewed unless all charges made under Subsection E(1) and (2) have been paid in full to the City by the licence holder prior to April 1 of the year of renewal.
- F. Any holder of a licence under this section shall as of July 31, 1998 ensure that no goods are displayed or sold within the licensed portion of the boulevard except goods which are the same or similar to those sold as part of the primary business carried on within the abutting premises occupied by the owner or occupant. **[Added 1998-07-31 by By-law No. 553-1998; amended 1998-10-30 by By-law No. 797-1998]**
- G. (1) The Commissioner may, after providing the holder of a licence under this section with notice and an opportunity to be heard by the Committee, recommend to the Committee and Council that the size of the licensed area be reduced so as to ensure sufficient space for the safe passage of pedestrian traffic on the sidewalk. **[Added 1998-07-31 by By-law No. 553-1998]**
- (2) Where Council directs that the size of the licensed area shall be reduced, subsection 313-35B(8) shall apply with respect to the reduction of the licensed area by the licensee. **[Added 1998-07-31 by By-law No. 553-1998]**

§ 313-36. Boulevard cafes.⁴⁸

- A. Despite any City by-law, where the owner or occupant of property, which may be lawfully used for industrial or commercial purposes and which abuts on a boulevard, lawfully operates on the property a licensed victualling house, restaurant, take-out restaurant, refreshment establishment or lunch counter which is subject to inspection by the Medical Officer of Health and in which washroom facilities are located, the owner or occupant may apply to establish, maintain and operate a boulevard cafe in conjunction with that operation on the portion of the boulevard between the street line and a line located forty-six hundredths (0.46) metre back of and parallel to the sidewalk and that is not less than two and one-tenth (2.1) metres from the curb.
- B. Application procedure.
- (1) The owner or occupant shall complete an application in the form prescribed by the Commissioner, and shall pay in advance a processing fee in the amount specified in Schedule A at the end of this chapter.

⁴⁸Editor's Note: This section was passed under the authority of paragraph 3 of section 308 and section 310 of the Municipal Act, R.S.O. 1990, c. M.45., and the City of Toronto Act, 1993 (No. 3).

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- (2) The Medical Officer of Health shall report to the Commissioner with respect to the application and the existence of approved washroom facilities to be used in conjunction with the boulevard cafe.
- (3) The Commissioner of Buildings and Inspections shall report to the Commissioner indicating whether the boulevard cafe is located in an area which may be used for commercial or industrial purposes.
- (4) Where the application is for a boulevard cafe to be located on a residential flankage, the Commissioner shall require that a poll be conducted under Chapter 90, Polling and Notification Procedures. **[Amended 1996-09-16 by By-law No. 1996-0450; 1997-10-06 by By-law No. 1997-0633]**
- (5)⁴⁹ Where the application is for a boulevard cafe to be located on a commercial frontage, the Commissioner shall prepare a notice advising of the application and shall post the notice on the property in a manner so that the notice is visible to passersby, for a period of not less than fourteen (14) days before a date specified by the Commissioner. **[Added 1997-10-06 by By-law No. 1997-0633]**
- (6)⁵⁰ Where the Commissioner determines that the application does not comply with this chapter and the policies of Council, where the results of the poll taken under Subsection B(4) are that the majority, as defined in § 90-2G, are not in favour of the application, or where the Commissioner receives one or more letters of objection in response to the public notice posting set out in Subsection B(5), the Commissioner shall refuse the application. **[Added 1997-10-06 by By-law No. 1997-0633]**
- (7)⁵¹ Upon receipt of the polling or public notice results regarding a boulevard cafe, the Commissioner shall inform the Ward Councillor and the Ward Councillor may bring the application before the next regular meeting of the City Services Committee for consideration. **[Added 1997-10-06 by By-law No. 1997-0633]**
- (8) If the application is not refused under Subsection B(6) or referred to the City Services Committee under Subsection B(7), the Commissioner shall approve the application. **[Added 1997-10-06 by By-law No. 1997-0633⁵²]**

⁴⁹Editor's Note: Former Subsection B(5), regarding boulevard cafes located on a residential flankage, amended 1995-05-16 by By-law No. 1995-0367, was repealed 1996-09-16 by By-law No. 1996-0450.

⁵⁰Editor's Note: Former Subsection B(6), regarding polls requested by a Councillor, was repealed 1995-05-16 by By-law No. 1995-0367.

⁵¹Editor's Note: Former Subsection B(7), regarding the Commissioner's right to refuse an application, amended 1995-05-16 by By-law No. 1995-0367, was repealed 1996-09-16 by By-law No. 1996-0450.

⁵²Editor's Note: This by-law also provided for the redesignation of former § 313-36B(8) and (9) as § 313-36B(9) and (10), respectively.

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- (9) Where an application has been refused by the Commissioner, the applicant may appeal the refusal under § 313-77.
- (10) Where a refusal is appealed in writing under § 313-77, the Commissioner shall prepare and forward a report to the Committee setting out the grounds for refusal of the application, which shall be considered in conjunction with the appeal. **[Added 1995-03-27 by By-law No. 1995-0215]**
- C. **[Amended 1996-09-16 by By-law No. 1996-0449]** Where the application includes permission to place and operate a portable propane heating unit or a barbecue within the licensed boulevard cafe areas, the following provisions apply in addition to those set out in Subsection A:
- (1) In the case of a barbecue:
- (a) The operator shall obtain a certificate from the Medical Officer of Health respecting compliance with the regulations made under the Health Protection and Promotion Act⁵³ with respect to the barbecue food preparation and service area.
 - (b) A clearance of one and two-tenths (1.2) metres shall be maintained between the barbecue and cafe seating areas, and the clearance shall be defined by a portable physical barrier made of a fireproof material, with dimensions of not less than one and two-tenths (1.2) metres in width and two (2) metres in height.
 - (c) Where the barbecue is proposed to be fuelled by or equipped with propane, Subsection C(2)(d) and (e) apply with necessary modifications.
- (2) In the case of a portable propane heating unit:
- (a) The propane heating unit shall be installed and operated in conformity with the manufacturer's instructions and specifications, including clearance from combustibles.
 - (b) The propane heating unit shall be secured to the boulevard utilizing the manufacturer's listed part.

⁵³Editor's Note: See R.S.O. 1990, c. H.7.

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- (c) The propane heating unit shall be located so that it does not present a hazard to cafe patrons or pedestrians.
- (d) The operator shall attach a locking device of a design satisfactory to the Commissioner to the propane heating unit. **[Added 1997-05-12 by By-law No. 1997-0203⁵⁴]**
- (e) The operator shall obtain evidence satisfactory to the Commissioner respecting completion of a training course in the use of propane by all persons intended to be operating the propane heating unit.
- (f) The operator shall obtain a report from the holder of a certificate under Ontario Regulation 348/96 made under the Energy Act with respect to propane heating units, that the proposed propane heating unit meets the requirements of the Propane Storage, Handling and Utilization Code (Ontario Regulation 250/94).

C.1 Boulevard Cafe Decks **[Added 1999-03-04 by By-law No. 121-1999]**

- (1) Where the application includes permission to construct and maintain a boulevard cafe deck within the licensed boulevard cafe area, the following provisions apply in addition to those set out in Subsections A and C:
 - (a) Boulevard cafe decks shall only be permitted on sidewalks or boulevards that exceed a slope of 5% and over.
 - (b) The deck shall be no higher than what is required to accommodate a level area and the deck framing members (which shall be the minimum depth required).
 - (c) A skirt or screen shall be provided where the distance between the grade and the top of the deck is greater than the total thickness of the deck and framing members.
 - (d) Wood used for the decking, skirt, uprights, or railing shall be treated, painted, or stained.
 - (e) When wood is used for the uprights;
 - (i) post widths shall not exceed 0.10 m x 0.10 m (4 x 4 inches);

⁵⁴ Editor's Note: This by-law also provided that former § 313-36C(2)(d) and (e) be redesignated as § 313-36C(2)(e) and (f), respectively.

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- (ii) top and bottom railings shall not exceed 0.06 m x 0.09 m (2.5 x 3.5 inches);
 - (iii) pickets or balusters shall not exceed 0.04 m x 0.04 m (1.5 x 1.5 inches); and
 - (iv) the spacing between the pickets or balusters shall not exceed 0.10 m (4 inches).
 - (f) A minimum width of 1.03 m (3.3 ft.) break in the railing shall be provided at the high side of the slope to provide wheelchair access.
 - (g) Boulevard cafe decks shall not be constructed over existing underground services (i.e. hydro vaults, chambers, maintenance holes, etc.), except with prior written approval given by the relevant public utility.
 - (h) Should future installation of services within the boulevard area be required, the boulevard cafe owner shall, upon receipt of a 30 day notice, remove the boulevard cafe deck.
 - (i) The owner or occupant shall ensure that the boulevard cafe deck is removed at the end of the cafe season.
 - (j) Prior to receiving a licence or permission, the boulevard cafe owner shall enter into a written agreement with the City of Toronto, the terms, conditions, and form of the agreement to be satisfactory to the City Solicitor.
- (2) Boulevard cafe decks approved by the former City of Toronto Council on or before December 31, 1997 are exempt from the requirements in Subsection C.1 (1).
- D. Subsection B applies with necessary modifications to applications to expand a boulevard cafe that already has an unexpired boulevard cafe licence.
- E. Prior to receiving a licence or permission, enter into an agreement with the City containing the following terms and conditions, and any other terms and conditions as may be agreed upon by the owner or occupant and the City:
- (1) The owner or occupant shall pave and maintain any portion of the boulevard to be used for the purpose of the boulevard cafe to the satisfaction of the Commissioner.

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- (2) Where the owner or occupant places outdoor carpeting, artificial turf or other similar surface material upon the paved surface of any portion of the boulevard:
 - (a) The surface material shall not be affixed in any way to the paved surface and shall be maintained in a condition satisfactory to the Commissioner.
 - (b) The surface material shall be designed and installed to prevent hazardous conditions at any entrance to a boulevard cafe area.
 - (c) The surface material shall be removed from within the street allowance when the boulevard cafe ceases to be in regular daily use.
- (3) The owner or occupant shall not use the area occupied for any purpose other than a boulevard cafe and shall not serve or permit to be served anything not served from the abutting premises.
- (4) The owner or occupant shall pay in advance an annual charge per square metre of any portion of the boulevard proposed to be used for the purpose of the boulevard cafe in accordance with Subsection H.
- (5) The owner or occupant agrees to permit the Commissioner or any public utility to enter any portion of the boulevard proposed to be used, for the purpose of the installation, maintenance and repair of pipes, cables, wires, poles and other installations.
- (6) The owner or occupant shall indemnify and save harmless the City from any action, claim, damage or loss whatsoever arising from the use of the boulevard or anything undertaken or neglected to be undertaken in connection with the use.
- (7) The owner or occupant shall not use the cafe or the boulevard in whole or in part for any purpose other than the operation of a boulevard cafe in accordance with this chapter.
- (8) The owner or occupant shall, at all times and at his or her own expense, keep and maintain any portion of the boulevard proposed to be used in a clean, sanitary, attractive condition satisfactory to the Commissioner and the Medical Officer of Health and shall keep and preserve good order in and around the cafe and shall keep the boulevard and sidewalk surrounding or adjacent to the cafe free from papers, rubbish and debris of all kinds.

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- (8.1) In addition to the requirements of subsection (8), the occupant or owner shall, at all times and no less than on a daily basis, at his or her own expense, sweep and clear the boulevard and the sidewalk surrounding and within the boulevard café and ensure that they are clear of all debris, including cigarette butts. **[Added 2004-10-28 by By-law No. 978-2004]**
- (9) The owner or occupant shall pay all water and hydro-electric rates and charges made or chargeable in respect to the operation of the cafe.
- (10) The owner or occupant shall at all times observe and comply with, and endeavour to ensure strict observance of and compliance with, all statutory requirements, rules, regulations and by-laws of every municipal or other authority which in any manner affect or relate to the cafe or the use of the boulevard and operation of the cafe, including, without limitation the by-laws of the Metropolitan Corporation and The Metropolitan Toronto Police Services Board.
- (11) Removal.
- (a) Upon the termination of the permission for the use of any portion of the boulevard, the owner or occupant shall, at his or her expense, remove all equipment, furnishings and personal property from the boulevard upon thirty (30) days' notice in writing from the Commissioner to do so and shall not make any claim against the City on account of the removal and shall replace and restore the boulevard to a safe and proper condition to the satisfaction of the Commissioner.
- (b) If the owner or occupant neglects, refuses or fails so to do within the time specified in the notice, then the Commissioner may remove all installations from the boulevard and restore it to a safe and proper condition and may charge the costs of it to the owner or occupant.
- (c) The certificate of the Commissioner of the costs shall be final and the City may recover the costs from the owner or occupant in any court of competent jurisdiction as a debt owing by the owner or occupant to the City.
- (12) The owner or occupant shall, during the period of use of any portion of the boulevard and at the owner's or occupant's expense, cause to be maintained at all times a policy of insurance satisfactory to the City Treasurer in which the City is named insured and is indemnified against all liabilities which may in any way arise from the use of the boulevard.

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- (13) The owner or occupant agrees that the Council may at any time, without reason, cancel permission for the use of any portion of the boulevard for the cafe, after giving written notice to the owner or occupant and providing the owner or occupant with an opportunity to speak to the matter before the Committee.
- (14) The owner and occupant agrees that the Commissioner may, upon giving notice in writing to the owner or occupant, suspend permission for the use of the boulevard where the Commissioner has reason to believe that the provisions of the agreement are being violated by the owner or occupant, pending the consideration by the Committee of a report from the Commissioner respecting the violations, and the owner or occupant agrees that boulevard cafe shall not be operated during any suspension.
- (15) The owner or occupant shall not assign or transfer the permission for the use of any portion of the boulevard without the prior consent of Council.
- (16) The owner or occupant agrees that if permission has been granted to place and operate a barbecue or a propane heating unit within the licensed boulevard cafe areas, the owner or occupant shall operate and maintain the barbecue or propane heating unit as required by this chapter and shall at any time provide the Commissioner with a report from the holder of a certificate under Ontario Regulation 348/96 made under the Energy Act with respect to the propane heating unit or the barbecue if it is fuelled or equipped with propane. **[Added 1996-09-16 by By-law No. 1996-0449]**
- (17) **[Added 1999-03-04 by By-law No. 121-1999]** The owner or occupant agrees that, where permission has been granted after December 31, 1997 to construct and maintain a boulevard cafe deck, the owner or occupant shall construct and maintain the boulevard cafe deck as required by this chapter, and agrees that:
- (a) Should future installation of services within the boulevard area be required, the boulevard cafe owner shall, upon receipt of a 30 day notice, remove the boulevard cafe deck.
 - (b) The owner or occupant shall ensure that the boulevard cafe deck is removed at the end of the cafe season.
- (18) **[Added 2002-08-01 by By-law No. 600-2002]** For applications received on or after May 23, 2002, the owner or occupant agrees that:

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- (a) where he is notified by the City that he should do so, he shall arrange with EDCT for an inspection for one tree installation at the location;
 - (b) the decision on the feasibility of tree planting is to be made by EDCT and its decision is final;
 - (c) should the installation inspection by EDCT find that the location is suitable for tree planting, EDCT will advise the applicant;
 - (d) where EDCT has advised that the location is suitable for a tree to be planted, the applicant shall pay to the City a non-refundable fee in the amount of \$2,900.00 for the planting of a tree by the City; and
 - (e) the licence will not be granted until the fee for the tree installation has been collected by the City.
- F. Additional terms and conditions for cafe located on residential flankage.
- (1) In addition to the provisions of the agreement set out in Subsection E, where a boulevard cafe is located on a residential flankage, the agreement shall contain the terms and conditions in Subsection F(2) or the other terms and conditions as may be agreed upon by the owner or occupant and the City.
 - (2) The owner or occupant shall:
 - (a) Ensure the boulevard cafe is closed and cleared by 11:00 p.m. or, where Council has authorized extended hours of operation, the closing time as authorized by Council. **[Amended 1996-09-16 by By-law No. 1996-0443]**
 - (b) Ensure there is no outdoor music or amplified sound.
 - (c) Ensure doors and windows located on the residential flankage of the refreshment establishment shall not be left open or propped open while there is music or amplified sound in the interior.
 - (d) Erect visual barriers satisfactory to the Commissioner between the boulevard cafe and the abutting residential area.
 - (e) Maintain a minimum separation of one (1) metre between the boulevard cafe perimeter and any entrance to a dwelling unit located within an adjacent building or within the building containing the refreshment establishment.

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- (f) Ensure that no part of the boulevard cafe is less than twenty-five (25) metres from a residential zone.
 - (g) Ensure that there is a minimum separation of six (6) metres between the boulevard cafe perimeter and the extended boundary of a residential zone district containing properties fronting on the opposite side of the street across from the proposed boulevard cafe.
- F.1
 - (1) **[Added 1999-04-15 by By-law No. 185-1999]**In addition to the provisions set out in Subsection E, where a boulevard cafe is located on the Queen Street East frontage, between Coxwell Avenue and Victoria Park Avenue, the agreement shall be deemed to include the requirement that the owner or occupant ensure that the cafe is closed and cleared by 11:00 p.m.
 - (2) **[Added 1999-04-15 by By-law No. 185-1999]**The restriction on the hours of operation as set out in Subsection F.1(2) shall not apply:
 - (a) Where Council has imposed a specific closing time restriction on an affected cafe.
 - (b) On special event days as determined by the Commissioner.
- G. The owner or occupant of every boulevard cafe shall provide in conjunction with the boulevard cafe a fence as follows:
 - (1) The fence shall be located on the perimeter of the licensed boulevard cafe area and shall be constructed of materials such as metal railings and posts with or without fabric inserts, which enhance the light appearance of the fence and permit visual accessibility to the cafe.
 - (2) Proximity to fire hydrants; access.
 - (a) The fence shall not be located less than one (1) metre from any fire hydrant.
 - (b) Pumper connections on the face of the abutting building shall be clearly visible and directly and easily accessible from the street.
 - (c) The location of access openings in the fence shall be satisfactory to the Fire Chief and the Commissioner.

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- (3) The entrance/exit openings in the fence shall have a minimum width equal to that of the entrance of the adjacent eating establishment or eight-tenths (0.8) metre, whichever is the greater.
 - (4) The fence shall provide at least one (1) entrance having a width of not less than one (1) metre that is located and designed so as to permit easy access by a person in a wheelchair. **[Amended 1995-03-27 by By-law No. 1995-0249]**
 - (5) Where the boulevard cafe is permitted to extend around the eating establishment on two (2) boulevard areas, any enclosing fence shall be rounded or splayed at the curb radius to facilitate pedestrian movement.
 - (6) To maximize visual access between the sidewalk and the cafe:
 - (a) The height of the railing of the fence shall not be less than nine-tenths (0.9) metre or more than one and two-tenths (1.2) metres.
 - (b) The fence shall not be more than nine-tenths (0.9) metre in height within thirty (30) metres of an intersection.
 - (7) The fence may be free-standing if its supports do not project beyond the limits of the boulevard cafe area, or the fence may be supported on removable plates anchored to the paved surface of the boulevard cafe area, as determined satisfactory by the Commissioner, but any post shall not penetrate below the surface grade and footings shall not be used.
 - (8) The fence shall be easily removable.
 - (9) The fence shall be removed from within the street allowance during any period when the boulevard cafe operation is not in regular daily use.
 - (10) The owner or occupant of the boulevard cafe shall indemnify and save harmless the City from any action, claim, damage or loss whatsoever arising from the erection and maintenance of the fence on the City boulevard.
- H. A licence issued under this section shall be issued on a yearly basis (April 1 to March 31), and the owner or occupant shall pay in advance an annual charge per square metre for any portion of the boulevard to be used for the purpose of the boulevard cafe in the amount specified in Schedule A at the end of this chapter calculated for the following areas.
- (1) Area 1, being an area composed of:

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- (a) The area bounded by and including Spadina Avenue, Spadina Crescent, Bloor Streets West and East, Sherbourne Street, Lower Sherbourne Street and the Lakefront, excluding Area No. 2.
 - (b) The area bounded by and including Spadina Avenue, Dundas Street West, Bathurst Street and College Street.
 - (c) Yonge Street, from Bloor Street to north City limit.
 - (d) St. Clair Avenue East and West, from Avoca Avenue to Avenue Road.
 - (e) Eglinton Avenue East and West, from Mount Pleasant Road to Duplex Avenue.
- (2) Area 2, being an area bounded by and including York Street, University Avenue, Dundas Street West and East, Victoria Street, Colborne Street, Church Street, The Esplanade, Yonge Street and the Lakefront.
- (3) Area 3, being any portion or portions of the boulevard proposed to be used within any area not in Area 1 or Area 2.
- H.1 **[Added 2002-08-01 by By-law No. 600-2002]** A boulevard cafe licence issued prior to May 23, 2002 and subsequent renewals of that licence are exempt from the requirements in § 313-36E(18) provided the boulevard cafe licence continues to be held by the original applicant.
- I. Transfer of boulevard cafe licences.
- (1) Despite Subsection A, an application for the transfer of an existing boulevard cafe licence may be reviewed and approved by the Commissioner and no public notice or poll as required under Subsection B shall be required if:
 - (a) The previously licensed boulevard cafe is not altered in any way, physically and operationally.
 - (b) The Councillor for the ward in which the property is located has been notified of the transfer and has expressed no concerns.
 - (c) Where extended hours of operation were approved by Council in relation to the previous operation of the boulevard cafe, the closing hours proposed for the boulevard cafe under the transferred licence are now consistent with the requirements of this chapter.

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- (2) Where an application for the transfer of an existing boulevard cafe licence does not comply with Subsection I(1), the application shall be processed in accordance with the procedure set out in Subsection B.
- (3) Where an application for the transfer of an existing boulevard cafe licence is made on or after May 23, 2002, the applicant shall comply with § 313-36E(18). **[Added 2002-08-01 by By-law No. 600-2002]**

§ 313-37. Temporary partial cafe enclosure or boulevard cafe awning.⁵⁵

- A. The holder of a boulevard cafe area licence who wishes to erect a temporary partial cafe enclosure on the licensed boulevard cafe area shall submit an application to the Commissioner, together with any drawings, plans or details of the structure as the Commissioner deems necessary for the processing of the application.
- B. Despite any City by-law, where an application has been considered and refused by the Commissioner or by Council under this section, a further application for the same address or location shall not be considered within two (2) years from the date of the prior application.
- C. Where an application has been refused by the Commissioner, the applicant may appeal the refusal under § 313-77. **[Added 1997-10-06 by By-law No. 1997-0633⁵⁶]**
- D. Where a refusal is appealed in writing under § 313-77, the Commissioner shall prepare and forward a report to the Committee setting out the grounds for refusal of the application, which shall be considered in conjunction with the appeal. **[Added 1997-10-06 by By-law No. 1997-0633]**
- E. Restrictions and requirements.
 - (1) A temporary partial cafe enclosure shall be not less than forty-five hundredths (0.45) metre from the rear of an existing sidewalk or two and thirteen hundredths (2.13) metres from an existing curb, whichever location is furthest from the curb; or where, in the opinion of the Commissioner, a sidewalk of more than one and sixty-eight hundredths (1.68) metres in width is required, the temporary partial cafe enclosure shall be not less than forty-five hundredths (0.45) metre from the rear of the sidewalk.

⁵⁵Editor's Note: This section was passed under the authority of paragraph 3 of section 308 and section 310 of the Municipal Act, R.S.O. 1990, c. M.45., and the City of Toronto Act, 1993 (No. 3).

⁵⁶ Editor's Note: This by-law also provided for the redesignation of former § 313-37C, D and E as § 313-37E, F and G, respectively.

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- (2) A temporary partial cafe enclosure shall not be built over gas mains, transformer vaults and manholes, unless with the expressed consent of any owner of the service.
 - (3) A temporary partial cafe enclosure shall not interfere with the operation of, or access to, any utilities or services above or below ground.
 - (4) Canvas or similar sail goods material used as part of a temporary partial enclosure shall conform to ULC-5109-1969, "Standard for Flame Tests of Flame Resistant Fabrics and Films."
 - (5) The entrance/exit to a temporary partial cafe enclosure shall have a width of not less than the greater width of the entrance of the adjacent cafe premises or ninety-one hundredths (0.91) metre.
 - (6) The roof of a temporary partial cafe enclosure shall be not less than two and thirty-six hundredths (2.36) metres above grade, but the curtain of the awning shall be not less than two and thirteen hundredths (2.13) metres above grade.
 - (7) The roof of a temporary partial cafe enclosure with a slope and of more than three and five-tenths (3.5) metres wide shall have a means for the removal of surface run-off, including the temporary connection to an appropriate storm drain.
- F. A permit shall not be issued for a temporary partial cafe enclosure until the holder of the boulevard cafe licence has entered into an agreement with the City containing the following terms and conditions:
- (1) The permit holder shall construct the temporary partial enclosure under the supervision and inspection of the Commissioner and maintain the temporary partial cafe enclosure in good and proper repair and condition satisfactory to the Commissioner, including the immediate removal of all graffiti. **[Amended 1997-09-22 by By-law No. 1997-0504]**
 - (2) The permit holder shall remove the temporary partial cafe enclosure from the boulevard during any periods when the boulevard cafe operation is not in regular daily use.
 - (3) The boulevard cafe operator may, at his or her own discretion, during the period when the boulevard cafe operation is in regular daily use, lower or retract the awning, affix or remove the canvas material on the two (2) sides of the structure extending from the building and affix or remove the screens between the top and bottom rail of the fence.

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- (4) Removal.
 - (a) The temporary partial cafe enclosure shall be removed from the boulevard by the permit holder, at his or her expense, upon thirty (30) days' notice in writing from the Commissioner so to do and shall not make any claim against the City on account of the removal and shall restore the boulevard to the satisfaction of the Commissioner.
 - (b) If the permit holder neglects, refuses or fails so to do within the time specified in the notice, then the Commissioner may remove the temporary partial cafe enclosure and restore the boulevard to a safe and proper condition and may charge the costs of it to the owner or occupant.
 - (c) The certificate of the Commissioner of the costs shall be final and the City may recover the costs from the permit holder in any court of competent jurisdiction as a debt owing by the permit holder to the City.
 - (d) In the case of an emergency, as determined by the Commissioner, the temporary partial cafe enclosure shall be removed with or without notice.
- (5) The permit holder shall accept responsibility for the cost of relocating any existing utility or municipal service required to accommodate the construction of the temporary partial cafe enclosure.
- (6) The permit holder agrees to permit the Commissioner or any public utility to enter any portion of the boulevard partially enclosed for the purpose of constructing, reconstructing, installing, maintaining or repairing any utility or municipal service.
- (7) Access to carry out construction, reconstruction, maintenance or repairs to underground utilities and municipal services located beneath the temporary partial cafe enclosure shall be available twenty-four (24) hours per day.
- (8) The permit holder shall be responsible for any costs associated with the removal or partial removal of the temporary partial cafe enclosure to accommodate the construction, reconstruction, maintenance or repairs to underground utilities and municipal services.
- (9) The permit holder shall indemnify and save harmless the City from any action, claim, damage or loss whatsoever arising from the granting of

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permission to erect a temporary partial cafe enclosure and provide proof of having general liability insurance coverage satisfactory to the Commissioner of Finance, the coverage to contain a cross-liability clause and to include the City as a named insured.

(10) The permit holder shall pay an initial inspection fee in the amount specified in Schedule A at the end of this chapter.

(11) Any additional terms and conditions which Council or its officials may deem necessary in the City's interest.

G. Boulevard cafe awning.

(1) The holder of a boulevard cafe licence who wishes to erect a boulevard cafe awning over licensed boulevard cafe area may submit an application to the Commissioner and Subsections A, B, E and F apply with necessary modifications.

(2) Section 313-64 does not apply to a boulevard cafe awning that is erected under Subsection G(1) or a predecessor to this subsection in By-law No. 12519.

§ 313-37.1. Temporary full cafe enclosure. [Added 1997-10-06 by By-law No. 1997-0633]

A. The holder of a boulevard cafe area licence who wishes to erect a temporary full cafe enclosure on a licensed boulevard cafe area shall submit an application to the Commissioner, together with any drawings, plans or details of the structure as the Commissioner deems necessary for the processing of the application.

B. Despite any City by-law, where an application has been considered and refused by the Commissioner or by Council under this section, a further application for the same address or location shall not be considered within two (2) years from the date of the prior application.

C. Where an application has been refused by the Commissioner, the applicant may appeal the refusal under § 313-77.

D. Where a refusal is appealed in writing under § 313-77, the Commissioner shall prepare and forward a report to the Committee setting out the grounds for refusal of the application, which shall be considered in conjunction with the appeal.

E. Restrictions and requirements.

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- (1) A temporary full cafe enclosure is permitted only during the periods April 1 to May 30 and September 15 to November 1.
- (2) The temporary full cafe enclosure area plus the existing area of the related restaurant operation is equal to or less than the maximum gross floor area permitted for a restaurant or take-out restaurant use under the applicable zoning by-law.
- (3) The owner or operator of the temporary full enclosure shall pay to the City an additional fee to be calculated as follows:

(estimated annual market value of the licensed boulevard cafe area per square metre as determined by the City's Commissioner of Corporate Services x the rate of return (Chartered Bank's Prime Rate) x .33 x the licensed boulevard cafe area in square metres)
- (4) The restrictions and requirements set out in § 313-37E shall apply with necessary modifications.

F. A permit shall not be issued for a temporary full cafe enclosure until the holder of the boulevard cafe licence has entered into an agreement with the City containing the following terms and conditions:

- (1) The permit holder shall construct the temporary full enclosure under the supervision and inspection of the Commissioner and maintain the temporary full cafe enclosure in a condition satisfactory to the Commissioner, including the immediate removal of all graffiti.
- (2) The permit holder shall not increase the area of the related restaurant operation on private property so that the temporary full cafe enclosure area plus the area of the related restaurant operation is more than the maximum gross floor area permitted for a restaurant or take-out restaurant use under the applicable zoning by-law.
- (3) The temporary full cafe enclosure shall be used only during the periods April 1 to May 30 and September 15 to November 1.
- (4) No smoking shall be permitted in the full temporary boulevard cafe enclosure.
- (5) The enclosed area of the boulevard cafe shall not be taken into consideration when calculating any permitted designated smoking area.

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- (6) No heat-generating equipment shall be located within any part of the temporary full boulevard cafe enclosure.
- (7) The terms and conditions set out in § 313-37F shall apply with necessary modifications.

§ 313-38. Bicycle stands.⁵⁷

A. Placement of stands authorized.

- (1) Despite any City by-law, where the owner in possession or the occupant of the ground floor of property which abuts on a street has entered into an agreement with the City on the terms and conditions in Subsection A(2), the owner or occupant may, subject to the approval of the Commissioner, as to the construction of, the materials used and the size of, place upon the untravelled portion or the sidewalk of the street a bicycle stand for the parking of bicycles by the public without charge in a location on it designated by the Commissioner.
- (2) The following are the terms and conditions of the agreement referred to:
 - (a) The owner or occupant shall permit the Commissioner or any public utility to enter the portion of the street proposed to be occupied by the bicycle stand for the purpose of the installation, maintenance and repairs of pipes, cables, wires, poles and other installations.
 - (b) The owner or occupant shall indemnify and save harmless the City, its officers, employees and workers, against all actions, suits, claims and demands and from all loss, costs, damages and expenses which may result from the permission to place the bicycle stand upon the street or from the location on the street of the bicycle stand or any condition or circumstance arising from this.
 - (c) Removal.
 - [1] The owner or occupant shall, at his or her expense, remove the bicycle stand from the street upon thirty (30) days' notice in writing from the Commissioner to do so and shall not make any claims against the City on account of the removal.

⁵⁷Editor's Note: This section was passed under the authority of paragraph 3 of section 308 and section 310 of the Municipal Act, R.S.O. 1990, c. M.45., and the City of Toronto Act, 1993 (No. 3).

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[2] If the owner or occupant neglects, refuses or fails so to do within the time specified in the notice, then the Commissioner may remove the bicycle stand from the street and may charge the cost of it to the owner or occupant.

[3] The certificate of the Commissioner of the costs shall be final and the City may recover the costs from the owner or occupant in any court of competent jurisdiction as a debt owing by the owner or occupant to the City.

B. Property used for commercial or industrial purposes.

- (1) Despite any City by-law, where the owner or occupant of property lawfully used for industrial or commercial purposes which abuts on a sidewalk or boulevard has entered into an agreement with the City on the terms and conditions in Subsection B(2), the owner or occupant may use any portion of the sidewalk and boulevard in an area designated for commercial and industrial purposes under the applicable zoning by-law as may be approved by the Commissioner for the installation of a bicycle stand, if the use is in compliance with the agreement. **[Amended 1995-03-27 by By-law No. 1995-0249]**
- (2) The following are the terms and conditions of the agreement above referred to:
 - (a) The owner or occupant shall pave and maintain any unsurfaced portion or portions of the untravelled City street allowance to be occupied to the complete satisfaction of the Commissioner.
 - (b) The owner or occupant shall submit to the Commissioner for approval the design of the bicycle stand, its proposed location on any portion of the sidewalk and untravelled City street allowance and shall install the bicycle stand in accordance with the requirements of the Commissioner.
 - (c) The terms and conditions in Subsection A(2) with necessary modifications.
 - (d) The owner or occupant shall maintain the bicycle stand in good and proper repair and condition satisfactory to the Commissioner, including the immediate removal of all graffiti. **[Added 1997-09-22 by By-law No. 1997-0504]**

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§ 313-39. General requirement for parking on boulevards.

- A. Determination of use of property.
 - (1) The current lawful use of a property at the time a boulevard parking application is made shall determine whether the application shall be processed under § 313-40, 313-41 or 313-42.
 - (2) Reference shall be made to the applicable zoning by-law with respect to a boulevard parking application to ensure the current use is either permitted under the applicable zoning by-law or as a legal non-conforming use.

- B. **[Amended 1996-07-05 by By-law No. 1996-0363]** A licence may be issued under § 313-41 when:
 - (1) The applicant has complied with this chapter, as indicated by the approval of the Commissioner.
 - (2) The applicant has paved any portion of the boulevard upon which parking is proposed to be provided, to the satisfaction and the supervision of the Commissioner.
 - (3) Gutter ramps have been provided by the applicant as required for access from the travelled portions of the streets to any portion of the boulevard upon which parking is proposed to be provided, to the satisfaction and under the supervision of the Commissioner.
 - (4) The applicant has agreed in writing to indemnify and save harmless the City from any action, claim, damage or loss whatsoever arising from the issuing of the licence or the parking to be provided or anything done or neglected to be done in connection with the parking.
 - (5) The applicant has paid any administrative, survey and inspection fee and any annual user charge required under the section.

- B.1. **[Added 1996-07-05 by By-law No. 1996-0363]** A licence may be issued under §§ 313-40 and 313-42 when:
 - (1) There is compliance with § 313-39B(1), (3), (4) and (5).
 - (2) The proposed parking area and the adjacent driveway are paved with semi-permeable material or are designed to minimize surface runoff to the sewer system, all in accordance with the alternative paving treatment specifications

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set out in § 400-88, Schedule XXXV, Part II, or such other equivalent permeable paving treatment acceptable to the Commissioner of Public Works and the Environment.

C. Issuance of licence; cancellation.

- (1) Any licence issued under § 313-40, 313-41 or 313-42 shall be in writing and shall:
 - (a) Describe any area for which it is issued.
 - (b) State the number or parking spaces or any part of a parking space for which it is issued.
 - (c) Describe the parking spaces or any part of a parking space as to measurements and alignment.
 - (d) Describe any class of vehicles for which it is issued.
 - (e) State the hours within which parking is permitted.
- (2) Any licence issued under § 313-40, 313-41 or 313-42 shall be subject to cancellation at any time without notice.

D. Licences may not be issued for:

- (1) A Metropolitan road or a street that is an extension or connecting link of the King's Highway; or
 - (2) Any portion of the street between the curb and sidewalk.
- D.1.
- (1) **[Added 2005-06-16 by By-law No. 555-2005]**Notwithstanding any other provision of Chapter 313, no boulevard parking licence shall be issued to an owner or occupant under §§ 313-40, 313-41 or 313-42 for residential boulevard parking or commercial boulevard parking in Ward 18.
 - (2) Notwithstanding any other provision of Chapter 313, there is no right of appeal of the denial or prohibition of a licence under § 313-39D.1(1).
 - (3) Despite § 313-39D.1(1) and (2), any application for a licence under §§ 313-40, 313-41 or 313-42 for residential boulevard parking or commercial boulevard parking in Ward 18 which has been received by the City on or before June 16, 2005 and which is in the process of processing will continue

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to be processed in accordance with the provisions of this chapter and, if approved, will be grandparented.

- (4) Despite § 313-39D.1(1) and (2), all locations within Ward 18 licensed pursuant to §§ 313-40, 313-41 or 313-42 on or before June 16, 2005 shall be grandparented.

E. Marking and fencing.

- (1) Where a sidewalk has been constructed in front of any of the boulevard with respect to which a licence has been issued under § 313-40 or 313-41, a white line shall be painted, to the satisfaction of the Commissioner ninety-one hundredths (0.91) metre from the back of the sidewalk and parallel to it, and no vehicle parked on any portion of the boulevard under the licence shall extend over the white line. **[Amended 1996-07-05 by By-law No. 1996-0363]**
- (2) The Commissioner may, in his or her sole discretion, require the person to whom a licence has been issued to construct a suitable fence or barrier or install some other type of demarcation instead of the white line required under Subsection E(1).
- (3) Where a sidewalk has been constructed in front of any of the boulevard with respect to which a licence has been issued under § 313-42, a visual barrier having a minimum height of ninety-hundredths (0.90) metre and a maximum height of one and one-tenth (1.1) metres shall be provided between the commercial boulevard parking and the abutting residential area and be set back ninety-hundredths (0.90) metre from the rear edge of the sidewalk. **[Added 1996-07-05 by By-law No. 1996-0363]**
- (4) In addition to the requirements under Subsection E(3), a barrier in the form of a tree or a bench, planter box or fence having a minimum height of ninety-hundredths (0.90) metre and a maximum height of one and one-tenth (1.1) metres shall be provided along the side of the commercial boulevard parking space opposite to the side abutting the residential area, that will serve to contain the parking in the authorized area and provide adequate sightlines. **[Added 1996-07-05 by By-law No. 1996-0363]**

F. Exceptions.

- (1) No boulevard parking licence shall be issued for parking in front of the main front wall of a building for any property designated as RA, Q and MCR in

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the applicable zoning by-law on or after June 1, 1993. [**Amended 2001-10-04 by By-law No. 789-2001**]

- (2) Despite Subsection B(1), where a boulevard parking licence was granted on or prior to June 1, 1993, for parking in front of the main front wall of a building on a property designated as RA, Q and MCR in the applicable zoning by-law, the owner or occupant of that property may renew that licence annually under this chapter, if the building in respect of which the licence was granted prior to June 1, 1993, has not been demolished. [**Amended 2001-10-04 by By-law No. 789-2001**]

§ 313-39.1. Applications for parking on boulevards in residential areas. [Added 1995-02-27 by By-law No. 1995-0180; amended 1995-05-16 by By-law No. 1995-0367; 1996-07-05 by By-law No. 1996-0363]

- A. Where an application has been made under § 313-40 or 313-42, the Commissioner shall certify the eligibility of the application with respect to the requirements of the applicable section, and the Commissioner shall require that a poll be conducted under Chapter 90, Polling and Notification Procedures, and the procedure set out in § 400-9D(1), 400-9D(2) and 400-9D(3).
- B. Where more than one (1) poll has been conducted in relation to the same address or location, each application shall be considered on an individual basis.
- C. Issuance or refusal of licence.
 - (1) Where the poll referred to in Subsection A results in a majority of those persons casting ballots being in favour of the application, the Commissioner shall issue a licence for boulevard parking.
 - (2) Where the Commissioner determines that the application does not comply with this chapter and the policies of Council or where the poll referred to in Subsection A results in a majority of those persons casting ballots not being in favour of the application, then the Commissioner shall refuse the application.
 - (3) Where an application has been refused by the Commissioner of Public Works and the Environment, the applicant may appeal the refusal under § 400-9D(6).

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§ 313-39.2. Issuance of parking licences to other occupants. [Added 1995-02-27 by By-law No. 1995-0180]

- A. Despite §§ 313-40A, 313-41A(1) and 313-42A(1), any occupant of the property may apply for and be issued a licence under § 313-39B:
- (1) Where an owner in possession or occupant of the ground floor of property has not been issued a licence under § 313-39B.
 - (2) Where an owner in possession or occupant of the ground floor of property has been issued a licence under § 313-39B and there is still space available to be licenced for parking on the boulevard.
- B. Where an occupant, other than the owner in possession or the occupant of the ground floor of the property, obtains a licence under this section, that occupant may renew that licence annually under this chapter.
- C. Where an occupant, other than the owner in possession or the occupant of the ground floor of the property, advises the Commissioner that the licence is no longer required, the occupant of the ground floor of the property shall be given the right of first refusal on any further application for the use of the boulevard for parking.
- D. Where a licence is no longer required, as set out in Subsection C, the occupant who was issued the licence may apply for a rebate of the annual user charge proportionate to the unexpired term of the licence but is not entitled to reimbursement for any construction costs related to the construction of the space for parking on the boulevard.

§ 313-40. Parking on boulevards in residential areas.⁵⁸

- A. **[Amended 1996-07-05 by By-law No. 1996-0363]** Despite any City by-law, where the owner in possession or the occupant of the ground floor of property which is used for residential purposes which abuts on a boulevard has applied in writing to the Commissioner for a licence to provide parking for vehicles, and the licence has been issued and is in effect, and a suitable number of official signs has been erected and continues to be erected, the owner or occupant may provide parking on so much of the boulevard or any part of it that abuts on the property, exclusive of any portion of the street between the curb and sidewalk and exclusive of any portion of a street beyond the main front wall of any building situated on the property, for any class of

⁵⁸ Editor's Note: This section was passed under the authority of paragraph 3 of section 308 and section 310 of the Municipal Act, R.S.O. 1990, c. M.45., and the City of Toronto Act, 1993 (No. 3).

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vehicles specified in the licence, and any vehicle of any specified class may be parked on any portion of boulevard if it is parked in compliance with the licence and of this section,⁵⁹ provided that:

- (1) The licenced portion of the boulevard shall not be more than that required to establish a legal parking space or spaces.
- (2) The licenced portion of the boulevard shall be subject to the same terms and conditions as apply to front yard parking licences and areas pursuant to §§ 400-9D, except for 400-9D(4), and 400-47, with necessary modifications. **[Amended 2000-10-05 by By-law No. 806-2000]**
- (2.1) **[Added 1997-10-06 by By-law No. 1997-0579]** Effective December 1, 1997, a boulevard parking licence that satisfies all other criteria in this section may be issued only if:
 - (a) The property is not in an area or on a street authorized for permit parking under § 400-38; or
 - (b) The property is in an area or on a street authorized for permit parking under § 400-38 and:
 - [1] A permit parking space is not currently available;
 - [2] A waiting list has continuously existed for at least six (6) months prior to the date the application is received by the City; and
 - [3] A permit parking space will not be eliminated.
- (2.2) No application for boulevard parking under this section received by the City prior to December 1, 1997, shall be processed under Subsection A(2.1). **[Added 1997-10-06 by By-law No. 1997-0579]**
- (3) The annual fee of eighty four dollars (\$84.00) is paid by the applicant to the City of Toronto. **[Amended 2000-10-05 by By-law No. 806-2000]**
- (3.1) The applicant has paid a one-time application fee of sixty dollars (\$60.00) to the City of Toronto. **[Added 2000-10-05 by By-law No. 806-2000]**

⁵⁹Editor's Note: See also Ch. 400, Traffic and Parking.

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- B. (Reserved)⁶⁰
- C. This section does not apply to any portion of the street beyond the wall of a residential building facing and furthest from the front lot line as produced to the side lot lines. [Amended 1996-07-05 by By-law No. 1996-0363⁶¹]

§ 313-41. Parking on boulevards in industrial or commercial areas.⁶²

- A. Parking authorized.⁶³
 - (1) Despite any City by-law, where the owner in possession or the occupant of the ground floor of property which is used for industrial or commercial purposes which abuts on a boulevard has applied in writing to the Commissioner for a licence to provide parking for vehicles, and the licence has been issued and is in effect, and a suitable number of official signs has been erected and continues to be erected, the owner or occupant may provide parking on so much of the boulevard or any part of it that abuts on the property, exclusive of any portion of the street between the curb or sidewalk, for any class of vehicles specified in the licence, and any vehicle of any specified class may be parked on any portion of boulevard if it is parked in compliance with the licence and this section.
 - (2) Despite Subsection A(1), a licence under this section shall not be issued until the applicant has paid a non-refundable administration, survey and inspection fee in the amount specified in Schedule A at the end of this chapter.
- B. Denial of application.
 - (1) Where the Commissioner determines that the application does not comply with this chapter and the policies of Council, the Commissioner shall refuse the application.
 - (2) Where an application has been refused by the Commissioner, the applicant may appeal the refusal in accordance with § 313-77 of this chapter.

⁶⁰Editor's Note: Former Subsection B, Denial of application, was repealed 1995-02-27 by By-law No. 1995-0180.

⁶¹ Editor's Note: This by-law also repealed former Subsection D, which immediately followed this subsection and contained an exception for certain portions of streets.

⁶²Editor's Note: This section was passed under the authority of paragraph 3 of section 308 and section 310 of the Municipal Act, R.S.O. 1990, c. M.45., and the City of Toronto Act, 1993 (No. 3).

⁶³Editor's Note: See also Ch. 400, Traffic and Parking.

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- (3) Despite any City by-law, where an application has been considered and refused by the Commissioner or by Council under this section, a further application for the same address or location shall not be considered within two (2) years from the date of the application.
- C. Where the property abutting the boulevard in respect of which a licence has been issued under this section may be used for commercial or industrial purposes, the person to whom such licence has been issued shall pay in advance an annual charge for the use of any portion of boulevard with respect to which the licence was issued according to the following:
- (1) **[Amended 2000-10-05 by By-law No. 796-2000]** Area 1: Within the area bounded on the east by the east side of Jarvis Street, on the north by the north side of Bloor Street East, on the west by the west side of University Avenue and on the south by the Lake, the amount specified in Schedule A at the end of this chapter for each parking space or each square metre of the area with respect to which the licence was issued in any case where the number of parking spaces provided for in the licence cannot conveniently be determined.
 - (2) **[Amended 2000-10-05 by By-law No. 796-2000]** Area 2: Except for Area 1, within the geographical area of the former City of Toronto, as it was immediately before amalgamation on January 1, 1998, not included in Area 1, the amount specified in Schedule A at the end of this chapter for each parking space, or each square metre of the area with respect to which the licence was issued in any case where the number of parking spaces provided for in the licence cannot conveniently be determined.
- D. This section does not apply to any property which is or may be used for residential purposes.

§ 313-42. Parking on boulevards in residential areas where property is used for non-residential uses.

- A. Parking authorized; conditions.
- (1) **[Amended 1996-07-05 by By-law No. 1996-0363]** Despite any City by-law, where the owner in possession or the occupant of the ground floor of property which abuts on a boulevard, which property is being used for non-residential purposes and which property is either located in a residential district or flanks a residential district, has applied in writing to the Commissioner for a licence to provide boulevard parking for vehicles, and

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the licence has been issued and is in effect, and a suitable number of official signs have been erected and continue to be erected, the owner or occupant may provide parking on so much of the boulevard or any part of it that abuts on the property, exclusive of any portion of the street between the curb and sidewalk, for any class of vehicle specified in the licence, and any vehicle of any specified class may be parked on any portion of boulevard if it is parked in compliance with the licence and of this section, provided that:

- (a) The licenced portion of the boulevard shall not be more than that required to establish a legal parking space or spaces.
- (b) The licenced portion of the boulevard shall be subject to the same terms and conditions as apply to front yard parking licences and areas pursuant to §§ 400-9D and 400-47, with necessary modifications.

- (2) Despite Subsection A, a licence under this section shall not be issued until the applicant has paid a non-refundable administrative, survey and inspection fee in the amount specified in Schedule A at the end of this chapter.

B. (Reserved)⁶⁴

C. (Reserved)⁶⁵

D. (Reserved)⁶⁶

E. Where the ground floor of the property abutting the boulevard in respect of which a licence has been issued as provided by this section is used for non-residential purposes, the person to whom such licence has been issued shall pay in advance of the issuance of the licence an annual charge for the use of any portion of boulevard with respect to which the licence was issued according to the following schedule:

- (1) **[Amended 2000-10-05 by By-law No. 796-2000]** Area 1: Within the area bounded on the east by the east side of Jarvis Street, on the north by the north side of Bloor Street East, on the west by the west side of University Avenue and on the south by the Lake, the amount specified in Schedule A at the end of this chapter for each parking space or each square metre of the area with respect to which the licence was issued in any case where the

⁶⁴Editor's Note: Former Subsection B, regarding the duties of the Commissioner with respect to applications, was repealed 1995-02-27 by By-law No. 1995-0180. See now § 313-39.1.

⁶⁵Editor's Note: Former Subsection C, regarding the conduct of more than one (1) poll in relation to the same address or location, was repealed 1995-02-27 by By-law No. 1995-0180. See now § 313-39.1.

⁶⁶Editor's Note: Former Subsection D, Issuance or refusal of licence, was repealed 1995-02-27 by By-law No. 1995-0180. See now § 313-39.1.

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number of parking spaces provided for in the licence cannot conveniently be determined.

- (2) **[Amended 2000-10-05 by By-law No. 796-2000]** Area 2: Except for Area 1, within the geographical area of the former City of Toronto, as it was immediately before amalgamation on January 1, 1998, not included in Area 1, the amount specified in Schedule A at the end of this chapter for each parking space, or each square metre of the area issued in any case where the number of parking spaces provided for in the licence cannot conveniently be determined.

- F. This section does not apply to any property in an area that is in a residential use district under the applicable zoning by-law which is not used as a residential property by reason of a legal non-conforming non-residential use. **[Amended 1995-03-27 by By-law No. 1995-0249]**

§ 313-43. Tunnels, areaways and other openings.⁶⁷ [Amended 1995-03-27 by By-law No. 1995-0249; 1997-10-06 by By-law No. 1997-0589]

- A. Approval.

- (1) No person shall construct or continue a tunnel, overhead walkway or other area or opening in or under the sidewalk or street opposite any property, unless and until the owner or lessee of the property has first submitted a plan or drawing of it to and obtained permission from the Committee and Council, upon the report of the Commissioner.
- (2) Despite Subsection A(1), the Commissioner shall approve an application to construct or continue:
- (a) A window well, basement entrance, area or opening which is set back a minimum of forty-six hundredths (0.46) metre from the rear edge of the sidewalk or a minimum of two and one-tenth (2.1) metres from the curb where no sidewalk is present; or
- (b) A fuel pipe,

⁶⁷ Editor's Note: This section was passed under the authority of paragraph 3 of section 308 of the Municipal Act, R.S.O. 1990, c. M.45.

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provided that these installations do not present a hazard to the public or interfere with any public utility use or proposed use.

- B. On approval, and before construction, the owner or lessee shall enter into an agreement with the City:
- (1) To indemnify the City from and against all actions, suits, claims and demands and from all loss, costs, charges and expenses that may result from the permission or construction under it.
 - (2) To bear the cost of construction and to carry it out to the satisfaction of the Commissioner and in accordance with the approved plan.
 - (3) To pay to the City as and with the taxes the annual area rental applicable in accordance with this chapter or any amendments to it.
 - (4) To maintain the area, opening or fuel oil fill pipe at all times in a manner satisfactory to the Commissioner.
 - (5) To repair and make good at his or her expense, satisfactory to the Commissioner, any damage caused to the sidewalk, boulevard or pavement, or to any drains, conduits, wires, pipes or their appurtenances, by the construction of the area, opening or fuel oil fill pipe or caused at any time during the maintenance of it.
 - (6) To discontinue and to close up the area in a manner satisfactory to the Commissioner upon receiving notice from the Commissioner, and also to restore the sidewalk and other structures or things referred to in Subsection B(5) to their former condition and location, satisfactory to the Commissioner or, alternatively, to pay the costs of the closing up and work of restoration if the work is carried out by the Commissioner upon failure to do so.
 - (7) That the area, opening or fuel oil fill pipe shall not be used for the purpose of habitation.
 - (8) That all expenses incurred by the City may be enforced in like manner as taxes that are due and payable on the lands opposite to which the area, opening or fuel oil fill pipe has been constructed.
 - (9) That the agreement may be registered against the lands opposite to which the area, opening or fuel oil fill pipe has been constructed
 - (10) To pay the cost of preparation and registration of the agreement.

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(11) That the City shall have the right to place pipes, cables, wires, poles and other appliances in and through the area, opening or fuel oil fill pipe.

C. Revocation of permit; closing of area or opening.

(1) Upon receiving authority from the Committee and Council, the Commissioner may revoke any permit for an area, opening or fuel oil fill pipe and order it to be closed up or filled in.

(2) If, after the expiry of two (2) weeks' notice, the owner or occupier of the property, opposite which the area, opening or fuel oil fill pipe exists, has refused or neglected to close up or fill in the area, etc., the Commissioner may do so and collect the cost of the work, including work of restoration of sidewalk, from the owner or occupier.

D. The owner of land opposite which any area or opening or fuel oil fill pipe has been constructed shall pay an annual charge and administrative charge for it, in the amount specified in Schedule A at the end of this chapter, for the following areas:

(1) **[Amended 2000-10-05 by By-law No. 796-2000]** Area 1: fuel oil fill pipe within that part of the former City of Toronto, as it was immediately before amalgamation on January 1, 1998, bounded on the east by the east side of Jarvis Street, on the north by the north side of Bloor Street East and West and on the west by the west side of University Avenue and on the South by the Lake.

(2) **[Amended 2000-10-05 by By-law No. 796-2000]** Area 2: fuel oil fill pipe in that part of the former City of Toronto, as it was immediately prior to amalgamation on January 1, 1998, not included in Area 1.

E. Computation of charges.

(1) The Commissioner shall measure every area or opening in or under the sidewalks and streets, and compute the annual charge to be made against every owner of premises in front of which any area or opening exists, and shall make a return to the City Clerk on or before the first day of April in each year, and before the preparation of the Collector's roll for the year, so that the City Clerk may enter the charge opposite the properties in respect of which the charges are rated or imposed; and the Commissioner shall also ascertain what fuel oil fill pipes exist within the City's boundaries, and shall include in the return to the City Clerk a list of the properties in front of which they exist, and the charges to be made for them, so that the charges may be likewise inserted in the Collector's roll for each year.

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- (2) If the Commissioner, before making the return, finds that the occupation of a street by any area, opening or fuel oil fill pipe has ceased since the beginning of the current year, he or she shall apportion the annual charges in proportion to the part of the year during which it occupied the street, and shall make a return of the apportioned charge only, but in no case shall the apportioned charges be less than the amount specified in Schedule A at the end of this chapter.
- F. The City Clerk shall enter the charges for such areas, openings or fuel oil fill pipes from the return made by the Commissioner in the Collector's roll against the respective properties opposite which the areas, openings or fuel oil fill pipes have been constructed, and the charges shall be rated against the properties, and shall be levied and collected with the taxes for the current year in the same manner as other municipal taxes.
- G. Where the occupation of a street by any area, opening or fuel oil fill pipe has ceased during any year for which the charges have been paid in full, a refund of an apportionate part of the charges shall be made by the City Treasurer to the owner or person paying the charges upon receiving a report and statement from the Commissioner as to the amount of the refund, but in no case shall the City's proportion of the charges be less than the amount specified in Schedule A at the end of this chapter.
- H. Whenever an area, opening or fuel oil fill pipe is constructed in any year, after the Commissioner has made a return to the City Clerk under Subsection E, the Commissioner shall report to the City Treasurer the date of the construction and the amount chargeable for the current year, and the owner of the premises in front of which the area, opening or fuel oil fill pipe exists shall pay the amount immediately upon demand from the City Treasurer, and on default of the payment the amount may be added to the Collector's roll for the following year.
- I. All applications to construct a pedestrian tunnel, overhead walkway or other area or opening which may be approved under Subsection A(1) shall be circulated to the Ward Councillor for comment, and, where objections are received, the Commissioner shall refuse the application and the applicant may appeal the refusal in accordance with § 313-77.

§ 313-44. Reserved⁶⁸

⁶⁸Note: This section was repealed by By-law No. 1070-2005, see now (new) City of Toronto Municipal Code Ch. 743.

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§ 313-44.1. Buskers and sidewalk artists. [Added 1995-04-24 by By-law No. 1995-0277]

- A. No person shall perform as a busker or carry on activities as a sidewalk artist upon the road, sidewalk or boulevard of any public highway unless they have obtained a permit issued on a yearly basis (April 1 to March 31) from the Commissioner under this section.
- B. Despite any other provision in this section, no person shall perform as a busker or carry on activities as a sidewalk artist upon any portion of the public highway listed in Schedule C at the end of this chapter. **[Added 1997-10-06 by By-law No. 1997-0525⁶⁹]**
- C. Any person wishing to obtain a busker or sidewalk artist permit may do so by applying to the Commissioner and paying in advance a non-refundable administration fee calculated in the amount specified in Schedule A at the end of this chapter.
- D. Any person occupying the public highway under the authority of a busker or sidewalk artist permit shall comply with the following regulations:
 - (1) No portion of the area used by a busker or a sidewalk artist and occupied by an audience shall:
 - (a) Create an obstruction so that there is less than three (3) metres of paved and passable space exclusive of the area so used and occupied.
 - (b) Be located less than nine (9) metres from the intersection of two (2) or more public highways.
 - (c) Obstruct passage to any transit stop, postal box, phone booth or driveway.
 - (d) Be located directly in front of the entrance to or exit from a building.
 - (e) Block a display window or a fire hose connection.
 - (f) **[Amended 1997-10-06 by By-law No. 1997-0525]** Be located within:
 - [1] Any portion of a public highway listed in Schedule C at the end of this chapter; and

⁶⁹Editor's Note: This by-law also provided for the redesignation of former § 313-44.1B, C, D and E as § 313-44.1C, D, E and F, respectively.

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- [2] Any designated area as defined in Municipal Code Chapter 315, Street Vending, Article I.
- (g) In the case of a busker who is a musician, be located less than fifty (50) metres from any other area being legally used by a musician or group of musicians.
- (2) No materials and equipment used for any activity authorized by the permit shall be left unattended.
- (3) No performance shall be undertaken or equipment placed or used which may pose a danger to the public.
- (4) No pavement or any installation within the public highway shall be damaged, permanently marked or in any way rendered unsafe for pedestrian use.
- (5) The permit holder shall, upon the request of a police officer or any person designated by the Commissioner for reasons of public safety, immediately cease any activity and remove any equipment located within the public highway.
- (6) The permit holder shall at all times observe and comply with the requirements of Municipal Code Chapter 241, Noise, where applicable, and all other statutory requirements, rules, regulations and by-laws of the City or other authority which in any manner affect or relate to the use of the sidewalk, boulevard or public highway, including, without limitation, the by-laws of the Metropolitan Corporation and The Metropolitan Toronto Police Services Board.
- (7) **[Added 1996-03-05 by By-law No. 1996-0142]** The following materials and equipment shall not be used for any activity authorized by the permit:
- (a) Spray paint or spray solvent.
- (b) Generator, amplifier or sound system.
- (8) No musical or theatrical activity authorized under the permit, except a mime, shall take place on any road, sidewalk or boulevard on the public highways or portions of the public highways listed in Schedule B, at the end of this chapter, during the time periods set out in Schedule B. **[Added 1996-03-05 by By-law No. 1996-0142; amended 1996-04-01 by By-law No. 1996-0165]**

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- E. No permit holder shall use a permit except in accordance with Subsection D and the terms and conditions of the permit.
- F. No person shall transfer or assign a permit or the right to use a permit.

§ 313-44.2. Special event permits. [Added 1995-04-24 by By-law No. 1995-0277]

- A. Despite § 313-44.1A, persons seeking busker or sidewalk artist permits in relation to special events may apply to the Commissioner by providing the following information:
 - (1) Location of the event.
 - (2) Duration of the event.
 - (3) Nature of the activity and materials or equipment proposed to be used.
- B. Where the Commissioner is of the opinion that the activity and event as proposed will not present a hazard to the public, he or she may issue a permit authorizing the specific activity at the location and for the duration of the event.
- C. The person to whom the permit has been issued shall comply with the conditions for the use of a permit as set out in § 313-44.1 and shall pay in advance a non-refundable administration fee calculated in the amount specified in Schedule A at the end of this chapter.

ARTICLE VII Use of Metropolitan Roads⁷⁰

§ 313-45. Lease or licence for certain purposes.⁷¹

- A. **[Amended 1995-03-27 by By-law No. 1995-0249]** An owner or occupant of land that may be lawfully used for commercial or industrial purposes which abuts on the sidewalk, boulevard or untravelled portion of a Metropolitan road within the City's boundaries may apply to the Commissioner to lease or licence the use of the

⁷⁰Editor's Note: This section was passed under the authority of Metropolitan Toronto By-law No. 110-85, being "A By-law to empower the area municipalities to lease or licence the use of sidewalks and untravelled portions on Metropolitan roads for the purpose of the location of newspaper vending boxes," and By-law No. 41-93, being "A By-law to delegate to certain area municipalities the authority to lease or licence the use of sidewalks, boulevards and untravelled portions of Metropolitan Roads," passed by the Metro Council under section 90 of the Municipality of Metropolitan Toronto Act, R.S.O. 1990, c. M.62, and the City of Toronto Act 1993 (No.3), paragraph 73 of section 210 and paragraph 3 of section 308 of the Municipal Act, R.S.O. 1990, c. M.45., and the City of Toronto Act, 1993 (No. 3).

⁷¹ Editor's Note: See also Ch. 315, Street Vending, Article III, Vending on Metropolitan Roads.

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sidewalk, boulevard or untravelled portion of the Metropolitan road for the purposes of:

- (1) Display of merchandise under § 313-35.
 - (2) Operation of boulevard cafes under §§ 313-36 and 313-37.
 - (3) Installation of bicycle stands under § 313-38.
 - (4) Holding of sidewalk sales under § 313-25.
- B. Any person may apply to the Commissioner under § 313-47 to lease or licence the use of any sidewalk, boulevard or untravelled portion of a Metropolitan road within the City's boundaries for the purposes of the location of newspaper vending boxes, and the Commissioner shall refer the application by report to the Committee and Council for approval.⁷²
- C. In the case of conflict between the provisions of this Article and the provisions that apply to the application under § 313-25, 313-35, 313-36, 313-37, 313-38 or 313-44, this Article prevails to the extent of the conflict.

§ 313-46. Lease or licence restrictions.

- A. No lease or licence shall be issued to any person under this Article unless and until the person has agreed in writing to indemnify and save harmless the Metropolitan Corporation and the City from any action, claim, damage or loss whatsoever arising from the issuance of the lease or licence or the use of the sidewalk, boulevard or untravelled portion of the road permitted by it or anything done or neglected to be done in connection with the use.
- B. The lessee or licensee shall at all times observe and comply with, and endeavour to ensure strict observance of and compliance with, all statutory requirements, rules, regulations and by-laws of the City or other authority which in any manner affect or relate to the use of the sidewalk, boulevard or untravelled portion of the road, including, without limitation, the by-laws of the Metropolitan Corporation and the Metropolitan Toronto Police Services Board.

⁷²Editor's Note: This subsection was enacted under the authority of Metropolitan Toronto By-law No. 110-85, which empowered area municipalities to lease or licence the use of sidewalks and untravelled portions of Metropolitan roads for the location of newspaper vending boxes.

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- C. The lessee or licensee shall not assign or transfer the permission for the use of any portion of the sidewalk, boulevard or untravelled portion of the road without the prior consent of Council.

§ 313-47. Lease or licence terms and conditions.

A lease or licence issued by the Commissioner under this Article shall be subject to the terms and conditions for each class of lease or licence as follows:

- A. Display of merchandise.
- (1) The lessee or licensee shall be the owner in possession of or the occupant of the ground floor premises abutting the area under lease or licence.
 - (2) Unimpeded pedestrian traffic movement.
 - (a) No merchandise shall be located closer to the curb of the roadway than two (2) metres or at a further distance from the roadway as may be determined by the Commissioner in order to sustain unimpeded pedestrian traffic movement.
 - (b) Despite Subsection A(2)(a), if an application is received on or after January 13, 1997, for a display of merchandise on a Metropolitan road set out in Schedule D at the end of this chapter, no merchandise shall be located closer to the curb of the roadway than three and six-tenths (3.6) metres, except that where utility poles, parking metres, trees, benches or other similar things are located within this setback area, the required setback is reduced to two (2) metres or at a further distance from the roadway as may be determined by the Commissioner in order to sustain unimpeded pedestrian traffic movement. **[Added 1997-01-13 by By-law No. 1997-0052; amended 1997-10-06 by By-law No. 1997-0525]**
 - (3) The area occupied by the lessee or licensee shall be paved and maintained to the satisfaction of the Commissioner.
 - (4) The design and location of displays shall be subject to the approval of the Commissioner.
 - (5) The Commissioner or any public utility shall be permitted to enter the area occupied by the lessee or licensee for the purpose of installation and maintenance of pipes, cables and any other service.

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- (6) The Commissioner may suspend, for cause, any lease or licence pending his or her report on it to the Committee and Council.
- (7) Cancellation of lease or licence; removal of installations.
 - (a) The lease or licence shall be subject to cancellation at any time by Council, and the lessee or licensee shall remove at his or her own cost all his or her installations from the sidewalk, boulevard or untravelled portion of the road on thirty (30) days' notice in writing of the cancellation.
 - (b) If the owner in possession or the occupant neglects, refuses or fails so to do within the time specified in the notice, then the Commissioner may remove all installations from the sidewalk, boulevard or untravelled portion of the road and restore them to a safe and proper condition and may charge the costs of it to the owner in possession or the occupant.
 - (c) The certificate of the Commissioner of the costs shall be final and the City may recover the costs from the owner in possession or the occupant in any court of competent jurisdiction as a debt owing by the owner in possession or the occupant to the City.
- (8) The lessee or licensee shall pay to the City any fee or charge imposed by Council for the same activity on or use of a street under § 313-25, 313-35, 313-36, 313-37, 313-38 or 313-44 as set out in Schedule A at the end of this chapter.
- (9) As of July 31, 1998, the lessee or licensee shall ensure that no goods are displayed or sold within the licensed portion of the boulevard except goods which are the same or similar to those sold as part of the primary business carried on within the abutting premises occupied by the lessee or licensee. **[Added 1998-07-31 by By-law No. 553-1998; amended 1998-10-30 by By-law No. 797-1998]**
- (10) (a) The Commissioner may, after providing the holder of a licence under this section with notice and an opportunity to be heard by the Committee, recommend to the Committee and Council that the size of the licensed area be reduced so as to ensure sufficient space for the safe passage of pedestrian traffic on the sidewalk as required under clause (2). **[Added 1998-07-31 by By-law No. 553-1998]**

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- (b) Where Council directs that the size of the licensed area shall be reduced, clause (7) shall apply with respect to the reduction of the licensed area by the licensee. **[Added 1998-07-31 by By-law No. 553-1998]**

B. Boulevard cafes.

- (1) The lessee or licensee shall be the owner in possession or the occupant of a ground floor premises licensed as a victualling house, restaurant, take-out restaurant, refreshment establishment or lunch counter, which is subject to inspection by a Medical Officer of Health and in which washroom facilities are located, and who has obtained the approval of Council for the operation of a boulevard cafe in conjunction with the licensed victualling house, restaurant, take-out restaurant, refreshment establishment or lunch counter.
- (2) Unimpeded pedestrian traffic movement.
 - (a) The occupation of the sidewalk or boulevard shall extend no closer to the curb of the roadway than two (2) metres or at a further distance from the roadway as may be determined by the Commissioner in order to sustain unimpeded pedestrian traffic movement.
 - (b) Despite Subsection B(2)(a), if an application is received on or after January 13, 1997, for a boulevard cafe on a Metropolitan road set out in Schedule D at the end of this chapter, no cafe fence shall be located closer to the curb of the roadway than three (3) metres, except that where utility poles, parking metres, trees, benches or other similar things are located within this setback area, the required setback is reduced to two (2) metres or at a further distance from the roadway as may be determined by the Commissioner in order to sustain unimpeded pedestrian traffic movement. **[Added 1997-01-13 by By-law No. 1997-0052; amended 1997-10-06 by By-law No. 1997-0525]**
- (3) The area occupied by the lessee or licensee shall be paved and maintained in a clean and sanitary condition to the satisfaction of the Commissioner.
- (4) The lessee or licensee shall not use the area occupied for any purpose other than a boulevard cafe and shall not serve anything not served from the abutting premises.
- (5) The lessee or licensee shall provide a policy of liability insurance in the amount of one million dollars (\$1,000,000.) naming the Municipality of

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Metropolitan Toronto and the City as insureds with respect to the operation of the boulevard cafe subject to the standard cross-liability clause in a form satisfactory to the Metropolitan Corporation and the City.

- (6) The terms and conditions in § 313-47A(5), (6), (7) and (8) apply with necessary modifications.

C. Bicycle stands.

- (1) The lessee or licensee shall be the owner in possession or the occupant of the premises abutting the area under lease or licence.
- (2) The design and location of any bicycle stand shall be subject to the approval of the Commissioner.
- (3) The terms and conditions in Subsection A(5), (6), (7) and (8) apply with necessary modifications.

D. Sidewalk sales.

- (1) The lessee or licensee shall be the owner in possession or the occupant of the ground floor premises abutting the area under lease or licence.
- (2) No merchandise shall be located closer to the curb of the roadway than two (2) metres or at a further distance from the roadway as may be determined by the Commissioner in order to sustain unimpeded pedestrian traffic movement.
- (3) The design and location of displays shall be subject to the approval of the Commissioner.
- (4) The frequency, length and duration of hours of operation shall be subject to the approval of Council.
- (5) The lessee or licensee shall provide a policy of liability insurance in the amount of one million dollars (\$1,000,000.) naming the Metropolitan Corporation and the City as insureds with respect to the operation of the sidewalk sale subject to the standard cross-liability clause in a form satisfactory to the Metropolitan Corporation and the City.
- (6) The lessee or licensee shall restore the sidewalk, boulevard or untravelled portion of the road to the satisfaction of the Commissioner.

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- (7) The terms and conditions in Subsection A(5), (6) and (8) apply with necessary modifications.

E. Newspaper vending boxes.

- (1) Newspaper vending boxes shall be maintained in a neat, clean and rust-free condition at all times.
- (2) The design and location of any newspaper vending box shall be subject to the approval of Council.
- (3) Any newspaper box shall be located in such a manner that it does not unreasonably confine, impede or present a hazard to public traffic.
- (4) The lessee or licensee shall provide an up-to-date list of all box locations annually to the Commissioner.
- (5) No advertising other than identification of the newspaper and its price shall be permitted on the box, except in one (1) small area of the box where “in-house” advertising will be permitted.
- (6) Right of entry.
 - (a) The Commissioner or any public utility shall be permitted to enter the area occupied by the lessee or licensee for the purpose of installation and maintenance of pipes, cables or any other services.
 - (b) Neither the City nor any public utility shall be responsible for damage to the boxes or their contents should it be necessary to move the boxes to effect entry.
- (7) Cancellation of lease or licence; removal of installations.
 - (a) The lease or licence shall be subject to cancellation at any time by Council and the lessee or licensee shall remove at his or her own cost all his or her installations on seven (7) days’ notice in writing of the cancellation.
 - (b) If the lessee or licensee neglects, refuses or fails to do so within the time specified in the notice, then the Commissioner may remove all the installations and restore the area occupied by the installations to a safe and proper condition and may charge the costs of it to the lessee or licensee.

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- (c) The certificate of the Commissioner of the costs shall be final and the City may recover the costs from the lessee or licensee in any court of competent jurisdiction as a debt owing to the City.
- (8) The lessee or licensee shall provide a certificate of insurance evidencing public liability insurance in the amount of one million dollars (\$1,000,000.) naming the Metropolitan Corporation and the City as additional named insureds and containing cross liability provisions, and providing that thirty (30) days' prior written notice be provided to the Treasurer of the Metropolitan Corporation and the Commissioner of Finance of the City in the event of any material amendment or cancellation of the policy.

§ 313-48. Blocking entrances prohibited.

No occupation of a sidewalk, boulevard or untravelled portion of a Metropolitan road by a lessee or licensee under this Article shall be permitted that may block or impair the entrance to any premises abutting the occupied area.

§ 313-49. Removal zones.

A lease or licence issued under this Article is a lease or licence for the purposes of a removal zone established under Article IV of Chapter 315, Street Vending.

ARTICLE VIII Encroachments on Streets

§ 313-50. Permitted encroachments.⁷³

- A. **[Amended 1997-10-06 by By-law No. 1997-0589]** An owner or lessee of a private property may apply in writing to the Commissioner requesting permission to construct, place or maintain benches, ornaments, statues, retaining walls, toe walls, planters, doors, bay windows, air-conditioning units, exhaust ducts, sprinkler systems, bollards and trees which encroach upon any street, and the Commissioner may issue a permit where the application complies with the following criteria:

⁷³Editor's Note: This section was passed under the authority of paragraph 3 of section 308 and section 310 of the Municipal Act, R.S.O. 1990, c. M.45.

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- (1) All installations shall be set back a minimum of forty-six hundredths (0.46) metre from the rear edge of the City sidewalk or a minimum of two and one-tenth (2.1) metres from the City curb where no sidewalk is present.
- (2) Footings proposed to be constructed within the street allowance shall not exceed a depth of sixty-one hundredths (0.61) metre and shall not include the use of reinforcing steel or wire mesh.
- (3) The proposed installation does not, in the opinion of the Commissioner, present a hazard to the public or interfere with any public utility use or proposed use.

B. The following specific criteria shall also apply:

- (1) In the case of benches, doors, bay windows, air-conditioning units and exhaust ducts, a minimum of two and one-tenth (2.1) metres of clear sidewalk or boulevard shall be available adjacent to the proposed installation.
- (2) (Reserved)⁷⁴
- (3) In the case of doors and bay windows, applications shall be considered for existing buildings only where the existing building constraints preclude confining the doors or bay windows to private property.
- (4) In the case of air-conditioning units or exhaust ducts, the proposed installation shall provide a minimum vertical clearance of two and seven-tenths (2.7) metres and shall comply with Chapter 241, Noise.
- (5) In the case of sprinkler systems, proposed sprinkler heads shall be oriented so that water is not directed over the sidewalk or travelled portion of the street, and the sprinkler shall not exceed a depth of sixty-one hundredths (0.61) metre.
- (6) In the case of bollards, the proposed footings within the street allowance shall not exceed a depth of nine-tenths (0.9) metre, and the bollard shall not exceed one (1) metre in height.
- (7) In the case of trees, there shall be no conflict with surface or underground utilities, the tree shall be of a species approved by the Commissioner of Parks and Recreation for planting within the street allowance and the property owner shall provide a letter of responsibility agreeing to maintain the tree

⁷⁴Editor's Note: Former § 313-50B(2), regarding retaining walls and ornamental walls, was repealed 1997-10-06 by By-law No. 1997-0589.

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in a healthy and vigorous state of growth for a two-year period, at which time the city will assume ownership and responsibility for the tree.

- C. **[Added 1997-10-06 by By-law No. 1997-0589⁷⁵]** The Commissioner shall approve an application which does not comply with the criteria as set out in Subsections A and B where:
- (1) The application is to maintain a pre-existing encroachment which does not present a hazard to the public or interfere with pedestrian traffic or any public utility use or proposed use;
 - (2) The setback required in Subsection A(1) shall cause interference with a tree, utility pole or other permanent installation; or
 - (3) The Commissioner is of the opinion that the structural stability of the proposed encroachment requires a footing depth greater than that permitted in Subsection A(2).
- D. An applicant under this section shall be required to enter into an agreement in a form and content satisfactory to the City Solicitor which contains the items listed in § 313-52.
- E. The applicant shall pay in advance an annual fee as set out in Schedule A at the end of this chapter.
- F. Where an application does not satisfy the criteria as set out in Subsections A, B and C the Commissioner shall refuse the application and submit a report to the City Services Committee, which may recommend to Council whether or not to issue the permit. **[Amended 1997-10-06 by By-law No. 1997-0589]**
- G.⁷⁶ Where, in the opinion of the Commissioner, the granting of the application would present a hazard to the public or interfere with any public utility use or proposed use in violation of Subsection A(3), the Commissioner shall refuse the application, and the applicant may appeal the refusal in accordance with § 313-77.

§ 313-51. Building entrance encroachments.

⁷⁵ Editor's Note: This by-law also provided for the redesignation of former § 313-50C, D, E and F as § 313-50D, E, F and G, respectively.

⁷⁶Editor's Note: Former § 313-50G, regarding the review of applications by the Ward Councillor, added 1995-01-17 by By-law No. 1995-0117, was repealed 1997-10-06 by By-law No. 1997-0589.

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- A. No person shall construct, place, make or continue steps or a porch or other means of entrance to a building, or a verandah or a canopy or similar structure, or cornices, which encroach upon any street, without having first obtained a permit from the Commissioner. **[Amended 1997-10-06 by By-law No. 1997-0589]**
- B. **[Amended 1995-03-27 by By-law No. 1995-0249; 1997-10-06 by By-law No. 1997-0589]** An owner or lessee of a private property may apply in writing to the Commissioner requesting permission to construct, place, make or continue steps, a porch or other means of entrance to a building, or a verandah or a canopy or similar structure which will encroach upon any street, and the Commissioner shall issue a permit upon the following conditions:
- (1) All installations shall be set back not less than forty-six hundredths (0.46) metre from the rear edge of the sidewalk or two and one-tenth (2.1) metres from the curb where no sidewalk is present.
 - (2) Footings within the street allowance shall not have a depth of greater than sixty-one hundredths (0.61) metre.
 - (3) Reinforcing steel or wire mesh shall not be used within the street allowance.
 - (4) All work is to be complete in accordance with City specifications and to the satisfaction of the Commissioner.
 - (5) The applicant has paid a non-refundable permit fee in the amount specified in Schedule A at the end of this chapter.
 - (6) The applicant has entered into an agreement under § 313-52.
- C. An owner or lessee of a private property may apply in writing to the Commissioner for permission to construct, place or make cornices, which encroach upon any street, and the Commissioner shall issue a permit upon the following conditions:
- (1) All installations shall be set back not less than forty-six hundredths (0.46) metre from the rear edge of the sidewalk or two and one-tenth (2.1) metres from the curb where no sidewalk is present.
 - (2) Provide a vertical clearance of not less than three and five-hundredths (3.05) metre to the underside of the cornice.
 - (3) All work is to be completed in accordance with City specifications and to the satisfaction of the Commissioner.

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- (4) The applicant has paid a non-refundable permit fee in the amount specified in Schedule A at the end of this chapter.
 - (5) The applicant has entered into an agreement under § 313-52.
- D. **[Added 1997-10-06 by By-law No. 1997-0589⁷⁷]** The Commissioner shall approve an application which does not comply with the criteria as set out in Subsections B and C where:
- (1) The application is to maintain a pre-existing encroachment which does not present a hazard to the public or interfere with pedestrian traffic or any public utility use or proposed use;
 - (2) The setback required in Subsection B(1) shall cause interference with a tree, utility pole or other permanent installation; or
 - (3) The Commissioner is of the opinion that the structural stability of the proposed encroachment requires a footing depth greater than that permitted in Subsection B(2).
- E. Refusal of application.
- (1) Despite Subsections B and C, and if the Commissioner receives written notice of opposition to the issuance of the permit, the Commissioner shall refuse the application.
 - (2) Where an application has been refused and an appeal has been filed under § 313-77, the Committee or Council may direct the Commissioner to issue a permit.

§ 313-52. Agreement requirements.

No permit shall be issued under §§ 313-50 and 313-51 until the applicant has entered into an agreement in a form and content satisfactory to the City Solicitor in which the applicant agrees:

- A. To indemnify the City from and against all actions, suits, claims and demands and from all loss, costs, damages, charges or expenses that may result from the permission or the erection as a result of the permission.

⁷⁷ Editor's Note: This by-law also provided for the redesignation of former § 313-51D as § 313-51E.

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- B. To maintain the encroachment in good and proper repair and condition satisfactory to the Commissioner, including the immediate removal of all graffiti. [**Amended 1997-09-22 by By-law No. 1997-0504**]
- C. To remove the encroachment on rebuilding or upon receiving reasonable notice from the City to do so.
- D. That if the City enacts a by-law imposing an annual tax on this type of encroachment, that the tax shall be paid.⁷⁸
- E. To any addition provisions as the City Solicitor may deem necessary in the interest of the City.

§ 313-53. Maintenance of existing building encroachments.⁷⁹

- A. Where the owner or occupant of any building or other erection that by inadvertence has been wholly or partially erected upon any street has made application in writing to the City Surveyor, the applicant may maintain and use the erection for its lifetime if the applicant has paid the fees set out in Schedule A at the end of this chapter and has entered into an agreement with the City on the terms and conditions in Subsection B. [**Amended 1997-10-06 by By-law No. 1997-0589**]
- B. The following are the terms and conditions of the agreement:
 - (1) In the event that the City at any time enacts a by-law levying an annual tax upon all encroachments of buildings or other structures upon or over any street, the applicant shall pay immediately on demand whatever annual tax may be levied in respect of an encroachment of the applicant's building upon or over the street permitted under this chapter.
 - (2) The applicant shall always indemnify and keep indemnified the City against all actions, suits, claims and demands which may be brought against or made upon the City and against all loss, costs, damages, charges or expenses whatsoever which may be incurred, sustained or paid by the City as a result of any encroachment permitted over and upon the street or otherwise by reason of the exercise by the applicant of the permission granted to maintain any encroachment over and upon the street, and the applicant grants to the City full power and authority to settle any actions, suits, claims and demands on terms as the City may deem advisable and covenants and agrees with the

⁷⁸ Editor's Note: See Ch. 320, Taxation, Art. IX.

⁷⁹ Editor's Note: This section was passed under the authority of paragraph 107 of section 210 of the Municipal Act, R.S.O. 1990, c. M.45.

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City to pay to the City on demand all money paid by the City in pursuant of any settlement and also the sum as shall represent the reasonable costs of the City or its Solicitor in defending or settling any actions, suits, claims or demands.

- (3) In the event that the City at any time undertakes the widening of the street and in connection with this requires the removal of the encroachment, the City shall not be liable to pay any compensation whatsoever for or in respect to the encroachment upon or over the street, and the applicant, at his or her own cost and expense and to the satisfaction of the Commissioner, shall remove the encroachment from the street.
- (4) In the event of a transfer or sale of the land upon which the encroaching erection is situate, the applicant shall immediately notify in writing the City Surveyor of the transfer or sale together with the name and address of the transferee or purchaser.
- (5) The owner or occupant shall maintain the encroachment in good and proper repair and condition satisfactory to the Commissioner, including the immediate removal of all graffiti. [Added 1997-09-22 by By-law No. 1997-0504⁸⁰]
- (6) Any other terms and conditions as the City Solicitor may deem necessary in the interest of the City.

C. When the applicant has complied with all the requirements of this section, the City Surveyor shall endorse on the agreement a certificate of compliance and cause the agreement to be registered in the proper registry or land titles office.

§ 313-54. Fees for administration, monitoring and enforcement for certain construction projects. [Amended 1995-03-27 by By-law No. 1995-0249; 1997-10-06 by By-law No. 1997-0589]

The Commissioner shall charge a fee as set out in Schedule A at the end of this Chapter for the costs of administration, monitoring and enforcement where required with respect to construction projects with a project value of one million dollars (\$1,000,000.) or greater.

§ 313-55. Refacing of buildings encroaching on streets.⁸¹

⁸⁰ Editor's Note: This by-law also provided for the redesignation of former § 313-53B(5) as § 313-53B(6).

⁸¹ Editor's Note: This section was passed under the authority of paragraph 110 of section 210 of the Municipal Act, R.S.O. 1990, c. M.45.

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- A. Where the owner of an existing building has complied with the requirements of Subsection B and has entered into an agreement with the City on the terms and conditions in Subsection C, the building may encroach or further encroach upon a street to such extent as may be necessary to provide for refacing the building.
- B. Requirements.
- (1) The owner shall have submitted to the City Surveyor a block plan showing the location of the building together with a plan of survey certified by an Ontario Land Surveyor showing the limits of the surrounding property and adjacent streets.
 - (2) The owner shall have obtained a building permit for the refacing of the building under the provisions of Chapter 146, Building Construction and Demolition.
- C. The following are the terms and conditions of the agreement above referred to:
- (1) The terms and conditions in § 313-53B with necessary modifications.
 - (2) The owner, in consideration of the permission granted under this section, charges his or her land with the payment to the City of all sums and costs, charges and expenses paid or incurred by the City in any way arising out of the existence of the encroachment over and upon the street, and unpaid by the owner and any such tax which may be levied, and covenants and agrees with the City that the same form and constitute a charge or lien on the land until fully discharged by payment.
 - (3) The owner shall pay a fee set out in Schedule A at the end of this chapter for the costs of preparation and registration of the agreement.
- D. When the owner has complied with all the requirements of this section, the City Surveyor shall endorse on the agreement a certificate of compliance and cause the agreement to be registered in the proper Registry Office.

§ 313-55.1. Maintenance of public utility equipment. [Added 1997-10-06 by By-law No. 1997-0616]

Any person, corporation or commission with the lawful right to place and maintain equipment within a street for the purposes of providing a public utility service, including telephone, electricity and gas services, shall ensure that the equipment is maintained in good and proper repair and condition satisfactory to the Commissioner, including the immediate removal of all graffiti.

ARTICLE IX

Signs⁸²

§ 313-56. Applicability.⁸³

- A. Sections 313-57 to 313-63 of this Article apply to all signs lighted by gas, electricity or other illuminant, and to all non-illuminated projecting signs having an area in excess of one and thirty-nine hundredths (1.39) square metres erected or maintained wholly or partly within the limits of any street, or attached to the face of any building, post, structure or other erection, when face or any part of it abuts any street or property used as a street in the City.
- B. Any fixture, wire or fitting used in illuminating a sign shall be deemed a part of the sign.

§ 313-57. Permit required for erection of signs.

- A. Permit required.
 - (1) No person shall attach to any lamp post, telegraph, telephone, electric light or other pole or to any erection or building any sign, for any purpose, without first having obtained a permit from the Commissioner, and upon payment to the City Treasurer of the fees under § 313-61 to cover the cost of inspection, and undertaking to remove the sign when notice is given for removal by the Commissioner, in accordance with § 313-61 or 313-63A.
 - (2) (Reserved)⁸⁴
- B. A plan or drawing of a proposed sign shall be submitted to the Commissioner, along with a written application for a permit signed by the applicant. The plan or application must state in detail the kind and character of the sign proposed to be erected or maintained, the actual area of the exterior surface of such sign, and the place where and the manner in which it is proposed to erect the sign, and any further details as the Commissioner shall require.

⁸²Editor's Note: This Article was passed under the authority of paragraph 3 of section 308, section 310 and section 326 of the Municipal Act, R.S.O. 1990, c. M.45.

⁸³Editor's Note: See also Ch. 297, Signs.

⁸⁴Editor's Note: Former Subsection A(2), which dealt with advertisements for tobacco products, was deleted 1995-10-16 by By-law No. 1995-0603.

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§ 313-58. Location.

- A. No sign shall be permitted to project beyond the curbline, and in no event shall any sign extend more than three and four hundredths (3.04) metres over the street line.
- B. Every sign shall have a minimum clearance of two and seventy-four hundredths (2.74) metres above the level of the sidewalk or street.

§ 313-59. Location; specifications.

- A. No sign shall obstruct or be attached to any part of a fire escape and where a sign is hung near any fire escape it must be arranged to swing free from the fire escape.
- B. Where an iron ladder is attached to a sign, it shall be erected on the side adjacent to the building.
- C. There shall be a minimum clearance between any sign and any electrical wire, other than the wires attached for the purpose of servicing the sign, of:
 - (1) Sixty-one hundredths (0.61) metre where the wire carries up to and including four thousand (4,000) volts; and
 - (2) One and eighty-three hundredths (1.83) metres where the wire carries up to and including thirteen thousand two hundred (13,200) volts.
- D. A sign shall be maintained at all times in a safe condition and in good and proper repair and condition satisfactory to the Commissioner, including the immediate removal of all graffiti, and shall be painted at least once every two (2) years.
[Amended 1997-09-22 by By-law No. 1997-0504]

§ 313-60. Alterations.

No alteration shall be made to any sign unless all the provisions of §§ 313-57, 313-58 and 313-59 are complied with, and unless a permit expressly issued for the purpose of allowing the alteration is first obtained from the Commissioner.

§ 313-61. Fees.

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- A. The owner or person having charge or control of any sign shall pay in advance to the City an annual fee computed at the rate specified in Schedule A at the end of this chapter.
- B. The first fee payable for any sign shall bear the same proportion to the amount of the annual fee as the period of time remaining after the date of permit for erection of sign in that calendar year bears to the whole year.
- C. In default of payment of the annual fee for thirty (30) days after notice requiring payment, the right to maintain the sign shall cease, and the permit issued shall be deemed to be revoked, and the Commissioner may order the sign to be taken down, and in the event of the sign not being removed within a reasonable time, the Commissioner may remove the sign at the expense of the owner of the sign or the occupant of the property to which it is attached.
- D. Failure to illuminate the sign, in the case of an illuminated sign, does not exempt the owner or person having charge or control of the sign for payment of the fee.

§ 313-62. Removal of unauthorized signs.

If the owner or occupant of any premises before which any sign is erected, which has not been approved or authorized by the Commissioner refuses or neglects to remove the sign, after fourteen (14) days' notice to do so, the Commissioner may remove the sign at the expense of the owner of the sign or the occupant of the property to which it is attached and the City may recover the expenses incurred in doing so by action or in like manner as municipal taxes.

§ 313-63. Revocation of permit; removal of sign.

- A. Revocation.
 - (1) Any permit for a sign may be revoked at any time by the Commissioner after receiving authority therefor from the Committee and upon giving two (2) weeks' notice.
 - (2) If, after the expiry of the period, the owner or person having charge or control of the sign has refused or neglected to remove the sign, the Commissioner may effect removal at the expense of the owner of the sign or the occupant of the property to which it is attached.
- B. Where a sign is removed during any year for which the fee has been paid in full, a refund of an apportionate part of the fee shall be made by the City Treasurer to the

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owner or person paying it, upon receiving a report and statement from the Commissioner as to the amount of the refund, but only if there has been no default under the terms and provisions of this chapter.

§ 313-64. Awnings, canopies, fire escapes and similar structures.

- A. No person shall erect or continue any awning, projecting canopy, sign post or non-illuminated sign that is not described in § 313-56 or electric, gas or other lamp or fixture, or fire escape which shall be wholly or partly within the limits of any street, or attached to the face of any building, post, structure or other erection which abuts any street, in the City without first having obtained a permit from the Commissioner, and undertaking to remove the erection when notice is given for its removal by the Commissioner, in accordance with this chapter.
- B. The provisions of §§ 313-58, 313-59, 313-60, 313-62 and 313-63A shall, except as otherwise indicated in this section, apply to any of the erections referred to in Subsection A.
- C. Where a fire escape is proposed to be constructed which encroaches upon the street, the following requirements shall apply:
 - (1) The erection shall be in compliance with the zoning by-law and the Ontario Building Code.
 - (2) Where the fire escape is proposed to be constructed over travelled streets or laneways, the minimum clearance shall be that required by the Highway Traffic Act.
- D. The provisions of § 313-58B shall not apply to projecting canopies or awnings.
- E. Fees.
 - (1) Every person proposing to erect or maintain any of the objects in Subsection A, with the exception of signs and projecting canopies, shall pay in advance to the City the fee set forth in Schedule A at the end of this chapter.
 - (2) Every person proposing to erect or maintain a sign under Subsection A or projecting canopy shall pay in advance to the City the fee set forth in Schedule A at the end of this chapter.

§ 313-65. Construction and location of awnings and projecting canopies.

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- A. No awning or projecting canopy shall be supported on or by any permanent iron or other support extending to the sidewalk in front of any building, but every awning or projecting canopy which overhangs a street or sidewalk or which abuts a street or property used as a street shall be supported on an iron, steel or other metal framework secured to the building.
- B. No part of any awning framework or awning, except its curtain, or projecting canopy shall be less than two and thirty-six hundredths (2.36) metres above the level of the street or sidewalk and no curtain shall be less than two and thirteen hundredths (2.13) metres above the level of the street or sidewalk.

§ 313-66. Issuance of permit.

- A. Upon the compliance with all the requirements of this chapter by any applicant for a permit under § 313-57A, 313-60 or 313-64A, the Commissioner may issue the permit, but the Commissioner shall report to the Committee and Council all applications which in the Commissioner's opinion should be refused.
- B. Any person who objects to the issuance of any permit by the Commissioner under the Subsection A may file his or her objections thereto with the City Clerk for consideration by the Committee and Council.

ARTICLE X Banner Signs

§ 313-67. Application for permit; processing fee.

- A. Any person, including an unincorporated association or society, who wishes to install a banner sign over or across a street may, at least eight (8) weeks prior to the date for which the permit is to be issued, make an application in the form prescribed by the Commissioner.
- B. The application shall include the following information:
 - (1) Name, address and telephone number of the applicant.
 - (2) Name of any street over or across which any banner sign is to be erected and the exact location of the proposed installation.
 - (3) Dates and times for which the permit is required and the date of removal.

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- (4) A drawing or drawings to scale in six (6) copies showing:
- (a) The subject matter of the banner sign including the text and any symbols and pictorial design.
 - (b) The names and identifying symbols of the sponsor.
 - (c) An exact description of any wire cable or brackets and other supports and fastening devices.
 - (d) The type of fabric of which the banner sign will be made.
 - (e) The method and means of erection and securing of the banner sign in position.
 - (f) The means by which the banner sign will be removed.
- C. An applicant shall pay a processing fee as set out in Schedule A at the end of this chapter.

§ 313-68. Permit conditions.

No permit shall be issued until the applicant has entered into an agreement with the City in which the applicant agrees:

- A. To indemnify and save harmless the City from any actions, loss, costs, claims or damages arising from the installation of any banner sign and, if it is necessary for the City to remove or alter any banner sign for any reason, the applicant shall indemnify the City against the cost of the removal or alteration.
- B. To erect any banner sign only at the location approved by the Commissioner.
- C. To erect and secure any banner sign in position by the use of galvanized wire cables or brackets and in accordance with any other requirements deemed necessary by the Commissioner;
- D. That no electrical display of any kind shall be attached to a banner sign.
- E. That every banner sign shall be made, constructed, erected and secured in position in accordance with the drawings approved by the Commissioner and the issued permit.

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- F. That any banner sign will be maintained in good and proper repair and condition satisfactory to the Commissioner, including the immediate removal of all graffiti. **[Amended 1997-09-22 by By-law No. 1997-0504]**
- G. To remove any banner sign during the authorized period of use when required in writing by the Commissioner to do so for reasons of safety or otherwise.
- H. To remove any banner sign at the termination of the authorized period of use and to replace and restore the street and all installations on which any banner sign was erected to a safe and proper condition to the satisfaction of the Commissioner.
- I. To reimburse the City the actual costs of removal of any banner sign and restoration of any street and all installations on which any banner sign was erected if it is necessary for the Commissioner to remove any banner sign, and the certificate of the Commissioner with respect to the costs shall be final, and the City may recover the costs in any court of competent jurisdiction as a debt owing to the City.
- J. That any corporate recognition on any banner sign will not exceed twenty per cent (20%) of the total area of the banner sign.
- K. To provide a certificate of insurance satisfactory to the Commissioner of Finance in which the City is an additional named insured, providing public liability coverage, bodily injury coverage and property damage coverage in the amount of one million dollars (\$1,000,000.) per occurrence, and including a cross-liability clause.
- L. Any other terms and conditions deemed necessary in the City's interest by the Commissioner and the City Solicitor.

§ 313-69. Permit fee. [Amended 1996-04-29 by By-law No. 1996-0221]

An applicant shall pay a permit fee and a fee for each pole reserved for street banner installation at the time of permit issuance, as set out in Schedule A at the end of this chapter.

§ 313-70. Term of permit; removal of sign.

- A. A permit shall be issued for a period of not more than ninety (90) days.
- B. The Commissioner may remove any banner sign at the expense of the owner if the owner fails to remove any banner sign at the end of the authorized period.

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§ 313-71. Clearance.

All parts of a banner sign or related equipment shall have a vertical clearance of not less than five and five-tenths (5.5) metres above the pavement immediately below the banner sign designed for vehicular traffic and two and seven-tenths (2.7) metres above the level of the sidewalk.

§ 313-72. Length and width.

- A. Banner signs displayed on a railway bridge shall not be more than three (3) metres in length and one (1) metre in width.
- B. Banner signs displayed at all other locations shall have a width of not more than one (1) metre.

§ 313-73. Refusal of permit.

- A. If the Commissioner determines that the application does not comply with this Article and the policies of Council, the Commissioner shall refuse the application.
- B. If an application has been refused by the Commissioner, the applicant may appeal the refusal under § 313-77.

ARTICLE XA Election Signs

[Added 1997-08-21 by By-law No. 1997-0428; amended 1997-09-23 by By-law No. 1997-0514; superceded by By-law No. 316-2000]

§ 313-73.1. Reserved.

ARTICLE XB Posters

[Added 1997-09-23 by By-law No. 1997-0514]

§ 313-73.2. Placement of posters on certain objects prohibited.

Except as provided in § 313-73.3, no person shall, by any means, attach, place or display, or cause or permit to be attached, placed or displayed, any poster on or to any tree, decorative light pole, publication vending box, bench, recycling bin, mail box, waste bin, planter, bicycle rack, transit shelter, traffic or other public signage or any other installation located within a street.

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§ 313-73.3. Placement of posters on utility poles and temporary hoardings regulated.

- A. Despite § 313-73.2, posters may be attached, placed or displayed as follows:
- (1) On a utility pole, provided that:
 - (a) The poster is not placed higher than two (2) metres above the ground on the utility pole.
 - (b) The poster is not placed upon any public signage, notice or electrical fixture or cable.
 - (c) The poster is printed on paper and is not printed on any other material.
 - (d) The poster is securely attached flush to the surface of the utility pole with water-soluble paste, one-centimetre staples or removable tape only.
 - (2) On a temporary hoarding erected by permit under § 313-22 , provided that:
 - (a) The poster is not placed higher than two (2) metres above the ground on the hoarding.
 - (b) The hoarding permit-holder has permitted and not prohibited, by notice or otherwise, the placing of posters on the hoarding.
 - (c) The poster is printed on paper, and is not printed on any other material.
 - (d) The poster is not placed upon any public signage or notice, including permitted signage erected by the hoarding permit-holder, or an electrical fixture or cable.
 - (e) The poster is securely attached flush to the surface of the hoarding with water-soluble paste, one-centimetre staples or removable tape only.
- B. No person shall attach, place or display or cause or permit the attaching, placing or displaying of a poster to or on a utility pole or hoarding except as permitted under Subsection A.

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§ 313-73.4. Removal of posters; fee.

- A. Despite anything else in this Article, posters may be removed at any time by the Commissioner or hoarding permit-holder in the course of routine cleaning operations.
- B. Where a poster has been removed by the Commissioner or hoarding permit-holder under this Article, it may be destroyed or otherwise disposed of by the Commissioner or hoarding permit-holder without any notice or compensation to the person responsible for attaching, placing or displaying the poster.
- C. Any poster attached, placed or displayed or caused or permitted to be attached, placed or displayed in violation of this Article may be removed by the Commissioner, and any person responsible for attaching, placing or displaying, or causing or permitting the attaching, placing or displaying, of the poster shall, in addition to any fine or other penalty which may be imposed for an offence under this Article, be required to pay a per-poster removal fee as indicated in Schedule A to this chapter which may be recovered by action or in like manner as municipal taxes.

ARTICLE XI

Administration and Enforcement

§ 313-74. Enforcement authority. [Amended 1997-09-22 by By-law No. 1997-0504]

- A. Where any person fails to maintain any object or installation as required by this chapter, including the immediate removal of all graffiti, the Commissioner may perform the maintenance, which shall be done at the person's expense, and the City may recover any expense incurred by it in performing the maintenance by legal action or in like manner as municipal taxes.
- B. Where any authority is conferred on the Commissioner under this chapter, the authority may be exercised by any employee of City Works Services authorized by the Commissioner.

§ 313-75. Right of entry.⁸⁵

Where, by any existing or future agreement respecting any sign, lamp, canopy, marquee or fire escape, the City is authorized to enter upon lands and premises for inspection purposes and for the purpose of removing the sign, lamp, canopy, marquee or fire escape, the Commissioner of Buildings

⁸⁵Editor's Note: See also Ch. 146, Building Construction and Demolition, Article III, Right of Entry.

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and Inspections may so enter upon the lands and premises for inspection purposes and, with the approval of Council, for the purpose of removing the sign, lamp, canopy, marquee or fire escape.

§ 313-76. Revocation of permission.

Where an applicant is required to pay a fee, provide proof of insurance or execute an agreement under any of the provisions of this chapter, the Commissioner shall provide the applicant with written notice that any permission granted or permit issued shall be revoked and rescinded unless the applicant pays the required fee or provides the required insurance or agreement within sixty (60) days of the date of the notice.

§ 313-77. Appeals.

- A. Where the Commissioner refuses to approve the issuance of a permit or grant permission under §§ 313-16, 313-18, 313-33, 313-34, 313-35, 313-36, 313-37, 313-41, 313-50, 313-57 and 313-67, an applicant may appeal to the Committee in writing setting out the reasons why the applicant believes the application complies with this chapter and request to be heard by the Committee. **[Amended 1996-07-05 by By-law No. 1996-0363]**
- B. The Commissioner shall forward a report on the application to the Committee, setting out the grounds for refusal.
- C. After providing the applicant with an opportunity to be heard, the Committee shall recommend to Council whether to grant or refuse the application.
- D. Despite Subsection C, the Committee may direct the Commissioner to grant permission or to issue a permit or licence under §§ 313-18, 313-34, 313-35, 313-40, 313-41, 313-57 and 313-67, subject to compliance with the other provisions of the section.
- E. Where an appeal is granted on or after May 23, 2002 regarding the issuance of a permit under § 313-36, the applicant shall comply with § 313-36E(18). **[Added 2002-08-01 by By-law No. 600-2002]**

§ 313-78. Property information fee.⁸⁶

⁸⁶Editor's Note: This section was passed under the authority of section 1 of The City of Toronto Act 1980, S.O. 1980, c. 126.

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Effective January 1, 1995, where a request is received for information on the status of a property with respect to development agreement compliance, local improvements, encroachments, street allowance licences or permits, historical environmental conditions or other matters under the jurisdiction of the Commissioner, a non-refundable property information fee as set out in Schedule A at the end of this chapter shall be charged, and payment of this fee shall be required prior to the provision of the information requested.⁸⁷

§ 313-79. Duties to be performed by Commissioner of Buildings and Inspections.

With the exception of the billing and collection of fees, the duties imposed upon the Commissioner in respect of signs, illuminated and otherwise, lamps, projecting canopies, awnings and fire escapes encroaching upon the street, shall be performed by the Commissioner of Buildings and Inspections.

§ 313-80. Exemptions. [Amended 1996-03-05 by By-law No. 1996-0142]

None of the provisions of this chapter shall apply so as to prohibit the parking of motor vehicles on the boulevard of Carlton Street, north side, from Sumach Street to Riverdale Park Road, by permit issued under Municipal Code Chapter 400, Traffic and Parking, for permit parking under § 400-38.

§ 313-81. Offences.

Any person who contravenes any provision of this chapter is guilty of an offence.⁸⁸

§ 313-82. Transition. [Amended 1995-03-27 by By-law No. 1995-0249]

An unexpired agreement, permit, licence or lease issued under or permission granted under By-law Nos. 12519, 279-73, 180-93 and 23044 with respect to use of a street, Metropolitan road or any part of a street or Metropolitan road that has not been revoked, is deemed to be the agreement, permit, licence, lease or permission required for the same use of the street, Metropolitan road or the part of the street or Metropolitan road under this chapter.

⁸⁷Editor's Note: See also Ch. 178, Fees.

⁸⁸Editor's Note: This section was passed under the authority of sections 320 and 331 of the Municipal Act, R.S.O. 1990, c. M.45, as amended, and, under section 61 of the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended, a person convicted of an offence under this section is liable to a fine of not more than five thousand dollars (\$5,000.).

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**SCHEDULE A
FEES**

[Amended 1995-02-06 by By-law No. 1995-0133; 1995-02-06 by By-law No. 1995-0134; 1995-03-27 by By-law No. 1995-0249; 1995-04-24 by By-law No. 1995-0277; 1995-09-18 by By-law No. 1995-0592; 1996-01-22 by By-law No. 1996-0078; 1996-03-05 by By-law No. 1996-0142; 1996-04-29 by By-law No. 1996-0221; 1996-07-05 by By-law No. 1996-0363; 1997-09-23 by By-law No. 1997-0514; 1997-10-06 by By-law No. 1997-0589; 2000-10-05 by By-law No. 796-2000]

Section of Chapter	Purpose	Fee
§ 313-19	Permit for temporary street closing, for each day or part of it	\$52.02*
§ 313-20	Permission to excavate	\$100.00* plus restoration costs
§ 313-21	Piling and Shoring:	
	Application fee	\$2,500.00*
	Inspection fee	\$56.06*/hr.
§ 313-22	Permit for temporary occupation of street:	\$7.50* per lineal metre per month
	Hoarding/scaffolding: Per lineal metre of hoarding, including wooden barricades, covered ways and walks through scaffolds, plus \$2.50* per square metre per month of enclosed boulevard	
	For each mobile crane	\$20.00* per day
	For each tower crane	\$20.00* per day
	For each swing tower crane	\$20.00* per day
	All other plant and material	\$20.00* per day
§ 313-24	For each disposal bin	\$20.00* per day

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§ 313-25	Sidewalk sale permit (per event)	\$200.00*
§ 313-31	Permit to construct walk or roadway across a boulevard:	
	Commercial/industrial/residential greater than 10 units	\$520.00 + the construction cost of ramps (dependent on the number of sidewalk bays)
	Residential less than 10 units	\$60.00 + the construction cost of ramps (dependent on the number of sidewalk bays)
§ 313-33	Administrative encroachment fee	\$55.00* (for installations of less than 0.30 metre in height; valued at less than \$1,000,000)
		\$360.00* (for installations of 0.30 metre or greater in height; valued at less than \$1,000,000)
		\$1,550.00* (for installations of 0.30 metre or greater in height; valued at more than \$1,000,000)
§ 313-34	Annual inspection charge for marquee on boulevard	\$20.81*
§ 313-35	Awning, temporary marketing enclosure or similar temporary installation:	
	Administration, survey and inspection fee (non-refundable)	\$52.02**
	Annual licencing charge	\$20.00**

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	Annual charge for use of boulevard for display or sale of merchandise per square metre	
	Area 1	\$31.24**
	Area 2	\$62.48**
	Area 3	\$15.63**
§ 313-36	Boulevard cafes	
	Application processing fee	\$156.21**
	Annual charge for use of boulevard, per square metre	
	Area 1	\$22.97**
	Area 2	\$45.94**
	Area 3	\$11.49**
§ 313-37	Temporary partial cafe enclosure	\$78.11**
§ 313-40	Licence for parking on boulevard in residential area:	
	Administration, survey and inspection fee	\$60.00*
	Per parking space	\$84.00
§ 313-41	Licence for parking on boulevard in commercial and industrial area:	
	Administration, survey and inspection fee	\$250.00*
	Annual charge for use of boulevard	
	Area 1	\$290.00* per space
	Area 2	\$220.00* per space
§ 313-42	Licence for parking on boulevard in residential areas where property is used for non-residential uses	
	Administration, survey, and inspection fee	\$250.00*
	Annual charge for use of boulevard	
	Area 1	\$290.00* per space

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	Area 2	\$220.00* per space
§ 313-43	Fuel oil fill pipe	
	Annual charge for area, opening or fuel oil fill pipe, per square metre or portion of it of street surface occupied by the area or opening:	
	Area 1	\$20.00* per square metre
	Area 2	\$12.00* per square metre
	Industrial/Commercial Use:	Market value
	Minimum apportioned charge	\$1.00*
	Administrative encroachment fees	\$55.00* (for installations of less than 0.30 metre in height; valued at less than \$1,000,000)
		\$360.00* (for installations 0.30 metre in height or greater; valued at less than \$1,000,000)
		\$1,550.00* (for installations 0.30 metre in height or greater; valued at more than \$1,000,000)
§ 313-44	Permit for placing publication vending box on highway, per box	
	Application Fee	\$55.00*
	Administration, survey and inspection fee	
	Annual Fee:	
	Area 1	\$38.00*
	Area 2	\$25.50*
	Area 3	\$18.50*

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Permit for placing publication vending
kiosk on highway in Area 1, 2 or 3

Annual Fee:

Per square metre \$60.00*
Minimum charge \$130.00* per kiosk

Application fee

Administration, survey and inspection fee \$60.00* per kiosk
(non-refundable)

§ 313-44.1 Busker and sidewalk artist permit \$25.00**

§ 313-44.2 Special event permit \$52.28**

§ 313-50 Street encroachments (landscaping,
benches, ornaments, bay windows,
air-conditioning units, steps, cornices,
building entrances, retaining walls, etc.)

Application Fee:

\$55.00
(for installations of less
than 0.30 metre in height;
valued at less than
\$1,000,000)

\$360.00*
(for installations
0.30 metre in height or
greater; valued at less
than \$1,000,000)

\$1,550.00*
(for installations
0.30 metre in height or
greater; valued at more
than \$1,000,000)

§ 313-51 Building Entrance encroachments \$55.00
(for installations of
less than 0.30 metre
in height; valued at
less than \$1,000,000)

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		\$360.00 (for installations of 0.30 metre in height or greater; valued at less than \$1,000,000)
§ 313-53	Building encroaching upon a street:	
	Any erection 2 1/2 storeys or less	\$572.21*
	Any erection over 2 1/2 storeys	\$832.30*
	Administration, survey and inspection fee (non-refundable)	\$54.05*
§ 313-54	Administration, monitoring and enforcement fee	\$1,550.00* (for construction projects greater than 0.3 metres in height and valued at \$1,000,000 or more)
§ 313-55	Refacing of buildings encroaching upon a street	\$200.00*
§ 313-61	Annual sign fee	
	Per square metre	\$2.69*
	Minimum charge	\$4.00*
	Maximum charge	\$50.00*
§ 313-64	Awning, sign post, gas lamp, fire escape, etc., annual fee	\$20.00*
	Sign or projecting canopy	
	Annual fee, per square metre	\$2.70*
	Minimum	\$4.00*
	Maximum	\$50.00*
§ 313-67	Banner sign	
	Application processing fee	\$60.00*

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§ 313-69	Permit fee:	
	Charitable no sponsorship	no fee
	Charitable with sponsorship	\$5.00* per pole (60 days)
	Non-charitable	\$10.00* per pole (60 days)
	BIA's	\$100.00* (maximum of 100 poles for 60 days)
§ 313-73.4C	Removal of poster	\$60.00* (per poster)
§ 313-78	Property information fee	\$60.00

*NOTE: These rates shall automatically increase on the first day of January in each year by the percentage increase in the All Items Index of the Consumer Price Index (not seasonally adjusted) for the Toronto Census Metropolitan Area, published by Statistics Canada, during the twelve-month period ending on October 1 in the year immediately preceding the rate increase date.

**NOTE: These rates shall automatically increase on the first day of April in each year by the percentage increase in the All Items Index of the Consumer Price Index (not seasonally adjusted) for the Toronto Census Metropolitan Area, published by Statistics Canada, during the twelve-month period ending on January 1 in the year of the rate increase.

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Schedule B
Busker and Sidewalk Artist Permits Under § 313-44.1
Time and Day Restrictions
[Added 1996-03-05 by By-law No. 1996-0142]

1. No activity authorized under the permit shall take place on the following streets between the hours of 9:00 a.m. to 12:00 noon and 2:00 p.m. to 5: 00 p.m. on Monday through Friday, inclusive, except on a statutory holiday:

Street	Side	From	To
Bay Street	East	Dundas Street West	Queen Street West
City highway (7.9 metres wide) adjacent to the original south limit of Dundas Street West	All of highway	Yonge Street	Bay Street
City highways adjacent to the original west limit of Yonge Street, being the strips of land 3.1 metres wide and the remnant parts of Teraulay Street, Trinity Street, Louisa Street and Albert Street	All of highway	Dundas Street West	26.13 metres north of Queen Street West
Queen Street West	Both	Bay Street	Yonge Street

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Schedule C

Busker and Sidewalk Artist Permits Under § 313-44.1

Excluded Public Highways

[Added 1997-10-06 by By-law No. 1997-0525]

1. No activity by a busker authorized under the permit shall take place on the following streets:

Street	Side	From	To
Queen Street East	North	Woodbine Avenue	41.3 metres east of Neville Park Boulevard
Queen Street East	South	Woodbine Avenue	Nursewood Road

2. No activity by a sidewalk artist authorized under the permit shall take place on the following streets:

Street	Side	From	To
Queen Street East	South	70.9 metres east of Waverley Road	86.4 metres east of Waverley Road

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Schedule D⁸⁹

**Setbacks for Certain Uses on Metropolitan Roads
[Added 1997-01-13 by By-law No. 1997-0052]**

Road	Side	From	To
Danforth Avenue	North	Gough Avenue	Chester Avenue
Danforth Avenue	South	Gough Avenue	Hampton Avenue

⁸⁹Editor's Note: By-law No. 1997-0525, adopted 1997-10-06, redesignated this schedule from Schedule C to Schedule D.