



NORTH YORK
BY-LAW NUMBER

29607

BOX NUMBER

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CITY OF NORTH YORK

BY-LAW NUMBER 29607

A **BY-LAW** for leasing or licensing the use of untravelled portions of roads under the jurisdiction of the Corporation of the City of North York.

**THE COUNCIL OF THE CORPORATION OF THE CITY OF NORTH YORK
HEREBY ENACTS AS FOLLOWS:**

1. In this by-law;
 - (a) "untravelled portions of roads" means that portion of the boulevard located between the municipal sidewalk and the street line and does not include the sidewalk.
 - (b) "City" means the Corporation of the City of North York.

2.
 - 1) The untravelled portions of roads under the jurisdiction of the City and abutting lands which may lawfully be used for commercial or industrial purposes may, in accordance with this By-law, be leased or licensed for the following purposes:
 - (a) display of merchandise;
 - (b) operation of boulevard cafes;
 - (c) installation of bicycle stands;
 - (d) holding of sidewalk sales.

 - 2) No lease or license shall be issued to any person pursuant to this By-law unless such person has agreed in writing to indemnify and save harmless the Corporation of the City of North York from any action, claim, damage or loss whatsoever, arising from the issuance of the lease or license, the use of the untravelled portions of roads permitted thereby or anything done or neglected to be done in connection with such use.

 - 3) The lessee or licensee shall at all times comply with, and endeavour to ensure strict compliance by others

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 untravelled portions of the roads.

- 4) No lessee or licensee shall assign or transfer the lease or license without the prior consent of the City and any purported assignment or transfer immediately terminates the right of use permitted by the lease or license.
3. Any lease or license issued pursuant to this By-law shall be subject to the following terms and conditions for the class of lease or license indicated:
- 1) Display of Merchandise
 - i) 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 license.
 - ii) merchandise shall be located at a distance from the roadway determined by the City in order to sustain unimpeded pedestrian traffic movement;
 - iii) the area occupied by the lessee or licensee shall be paved and maintained to the satisfaction of the City.
 - iv) the design and location of displays shall be subject to the approval of the City;
 - v) the City or any other 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;
 - vi) the City may suspend, for cause, any such lease or license;
 - vii) the lease or license shall be subject to cancellation at any time by the City and the lessee or licensee shall remove at his own cost all the installations from the leased area upon 30

days' notice in writing of such cancellation; provided that if the owner in possession or the occupant neglects, refuses or fails so to do within the time specified in the notice, then the City may remove all installations from the licensed or leased area and restore it to a safe and proper condition and may charge the cost thereof to the owner in possession or the occupant; and the City may recover such costs from the owner in possession or the occupant in any court of competent jurisdiction as a debt owing to the City;

- viii) the lessee or licensee shall pay to the City for such lease or license the charges imposed by the City Council by resolution from time to time;
- ix) No display of merchandise shall be permitted to encroach upon the sidewalk;
- x) the display of merchandise located upon the leased or licensed lands shall conform to the use of the adjoining building.

2) Boulevard Cafes

- i) the lessee or licensee shall have obtained the prior approval of City Council for his boulevard cafe;
- ii) the lessee or licensee, shall be the owner in possession of, or the occupant of a ground floor premises licensed as a victualling house, restaurant, refreshment establishment or lunch counter, which is subject to inspection by the Medical Officer of Health or other appropriate officials of the City and in which washroom facilities are located, and shall operate his boulevard cafe in conjunction with such licensed victualling house, restaurant, refreshment establishment or lunch counter;

- iii) the occupation of the untravelled portion of the road for the purpose of the boulevard cafe shall be at a distance from the roadway as determined by the City in order to sustain unimpeded pedestrian traffic movement;
- iv) the area occupied by the lessee or licensee shall be paved and maintained in a clean and sanitary condition to the satisfaction of the City;
- v) 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;
- vi) the lessee or licensee shall provide a policy of liability insurance in the amount of \$1,000,000.00 naming the City as insured with respect to the operation of the boulevard cafe subject to the standard cross-liability clause in a form satisfactory to the City;
- vii) the City 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;
- viii) the City may suspend, for cause, any such lease or license;
- ix) the lease or license shall be subject to cancellation at any time by the City and the lessee or licensee shall remove at his own cost all his installations from the licensed or leased area on 30 days' notice in writing of such cancellation; provided that if the owner in possession or the occupant neglects, refuses or fails to do so within the time specified in the notice, then the City may remove all installations from the licensed or leased area and restore it to

a safe and proper condition and may charge the cost thereof to the owner in possession or the occupant; and the City may recover such costs from the owner in possession or the occupant in any court of competent jurisdiction as a debt owing to the City;

- x) the lessee or licensee shall pay to the City for such lease or license the charges imposed by the City Council by resolution from time to time;
- xi) no boulevard cafe shall be permitted to encroach upon the sidewalk.

3) Bicycle Stands

- i) the lessee or licensee shall be the owner in possession of, or the occupant of the premises abutting the area under lease or license.
- ii) the design and location of any bicycle stand shall be subject to the approval of the City;
- iii) the lessee or licensee shall provide a policy of liability insurance in the amount of \$1,000,000,00 naming the City as insured with respect to the location of the bicycle stands subject to the standard cross-liability clause in a form satisfactory to the City;
- iv) the City 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;
- v) the City may suspend, for cause, any such lease or license;
- vi) the lease or license shall be subject to cancellation at any time by the City and the lessee or licensee shall remove at his own cost all his installations from the licensed or leased area on 30 days' notice in writing of such

cancellation; provided that if the owner in possession or the occupant neglects, refuses or fails so to do within the time specified in the notice, then the City may remove all installations from the licensed or leased area and restore it to a safe and proper condition and may charge the cost thereof to the owner in possession or the occupant; and the City may recover such costs from the owner in possession or the occupant in any court of competent jurisdiction as a debt owing to the City;

viii) the lessee or licensee shall pay to the City for such lease or license the charges imposed by the City Council by resolution from time to time.

ix) no bicycle stands shall be permitted to encroach upon the sidewalk.

4) Sidewalk Sales

i) 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 license;

ii) merchandise shall be located at a distance from the roadway determined by the City in order to sustain unimpeded pedestrian traffic movement;

iii) the design and location of displays shall be subject to the approval of the City;

iv) the City 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;

v) the frequency, length and duration of hours of operation of the sidewalk sale shall be subject to the approval of the City;

vi) the lessee or licensee shall provide a policy of liability insurance in the amount of \$1,000,000.00

naming the City as insured with respect to the operation of the sidewalk sale subject to the standard cross-liability clause in a form satisfactory to the City;

- vii) the lessee or licensee shall restore the leased or licensed area to the satisfaction of the City;
 - viii) the lessee or licensee shall pay to the City for such lease or license the charge imposed by the City Council by resolution from time to time.
 - ix) the City may suspend, for cause, any such lease or license;
 - x) no display of sale merchandise shall be permitted to encroach upon the sidewalk;
 - xi) the display of sale merchandise upon the leased or licensed lands shall conform to the use of the adjoining building.
4. No occupation of the untravelled portions of roads by a lessee or licensee under this By-law shall obstruct, in whole or in part, any entrance to any lands or premises abutting the leased or licensed area.
5. The Commissioner of Traffic is hereby authorized and directed to issue licenses under this By-law to applicants who comply with the requirements of the By-law.
6. Where this By-law directs or requires that any matter or thing be done, in default of its being done by the person directed or required to do it, such matter or thing may be done at his expense, and, in addition to any other remedy provided in this By-law, the City may recover the expense incurred in doing it in like manner as municipal real property taxes.

ENACTED and PASSED this 2nd day of July

A.D., 1985.

F. Roberts

CITY CLERK

W. J. [Signature]

MAYOR

C I T Y O F N O R T H Y O R K

J U L Y 2 , 1 9 8 5

R E S O L U T I O N

85-28 Greene - Wm. Sutherland - BE IT RESOLVED THAT:

1. The fee for leasing the untravelled portions of the roads under the jurisdiction of the City be those as set forth in the report from the Commissioner of Property to the Legislation Committee dated May 1, 1985, and adopted by Council at its meeting held Tuesday, July 2, 1985.
2. In the case of cancellation:
 - a) by the applicant, fees are not refundable;
 - b) by the City, fees will be refunded on a prorated basis.
3. The Commissioner of Traffic is assigned responsibility for administration with respect to the leasing of untravelled portions of roads under the jurisdiction of the City.

ABSENT: NIL

C A R R I E D

(Sgd.) E. Roberts
City Clerk

(Sgd.) Mel Lastman
Mayor

29607

Passed.....July 2,.....1985.

THE CORPORATION OF
THE CITY OF NORTH YORK

A
BY-LAW

No.....29607.....