

Authority: Works Committee Report No. 8, Clause No. 2, adopted as amended, by City of Toronto Council on September 28, 29 and 30, 2005, and Policy and Finance Committee Report No. 10, Clause No. 28, as adopted by City of Toronto Council on December 5, 6 and 7, 2005
Enacted by Council: December 7, 2005

CITY OF TORONTO

BY-LAW No. 1070-2005

To amend City of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use of, to regulate the placing, installation and maintenance of publication dispensing boxes, units and kiosks on City streets.

WHEREAS the placing, installation and maintenance of publication dispensing boxes, units and kiosks on City streets is currently governed by six separate by-laws of the former pre-amalgamation municipalities; and

WHEREAS the proliferation of these installations on City streets, often without benefit of a required permit, has, in the opinion of Council, resulted in a severe impact on the safe and efficient use of City streets as public property designed primarily for passage by the public; and

WHEREAS the City wishes to permit publications to continue to place such installations within City streets to the extent possible, provided that this can be done so as to address these issues and complement and enhance the image of Toronto as a clean and beautiful City;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Chapter 743, Streets and Sidewalks, Use of, of the Municipal Code is amended by:

(1) Deleting § 743-1 and substituting the following:

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

BOULEVARD – That part of a public street that is not used, or intended to be used, for vehicle travel by the general public, and is situated between the travelled portion of the road and the adjoining property line.

GENERAL MANAGER – The General Manager of the Transportation Services Division.

SIDEWALK – That part of a public street located within the boulevard that is improved for the exclusive use of pedestrians.

STREET – A highway as defined in subsection 1(1) of the *Municipal Act, 2001*.

- B. As used in § 743-3 of this chapter, the following terms shall have the meanings indicated:

AGREEMENT – An agreement setting out the requirements of this Section and such other terms and conditions as required by the General Manager and the City Solicitor for the granting of consent to a person to place, install and maintain publication dispensing boxes, units or kiosks on, along or within a street, subject to compliance with all other applicable municipal requirements.

APPLICANT – A person applying for a permit under § 743-3 of this chapter.

INSTALLATION – A publication dispensing box, unit or kiosk.

LOCAL STREET – Any street which is designated as such in the City's road classification system, as amended from time to time.

LOCATION – The portion of the street on which one (1) or more publication dispensing boxes or units are placed, and shall include each corner of a street intersection on which one or more of these structures are placed.

PERMIT – A permit issued under § 743-3.

PUBLICATION – A newspaper or other similar printed document which is published at regular intervals.

PUBLICATION DISPENSING BOX – A container installed, used and maintained for the dispensing of a single publication to the general public, either for financial consideration or free of charge.

PUBLICATION DISPENSING KIOSK – An enclosure or pavilion where person(s) dispense publications, to the general public either for financial consideration or free of charge.

PUBLICATION DISPENSING UNIT – A single container installed, used and maintained for the dispensing of two or more publications of the same or different publishers to the general public, either for financial consideration or free of charge.

- (2) By adding the following section to the chapter:

§ 743-3. Publication dispensing boxes.

- A. No person shall place, install or maintain an installation on, along or in a City street unless the person has:
- (1) complied with the requirements of this Section;
 - (2) obtained all applicable permits required by the City;
 - (3) paid all applicable fees as required by the City;
 - (4) submitted applicable evidence of required insurance; and
 - (5) entered into and is in compliance with an agreement.
- B. All previous agreements pertaining to the placement, installation and maintenance of installations entered into prior to the date that this Section is enacted are deemed to be null and void effective October 1, 2006, and all persons holding a permit for an installation shall enter into a new agreement as required under this Section by that date. All installations shall be brought into compliance with this Section by October 1, 2006, unless otherwise specified in this section.
- C. Application for a Permit
- (1) Any owner of a publication or the authorized agent of an owner of a publication who wishes to place, install or maintain publication dispensing boxes, units or kiosks on, along or in a City street shall submit an application to the General Manager on the prescribed form at least eight (8) weeks prior to the proposed date for the placement of the installation, including the following:
 - (a) name, address and telephone number of the applicant and any other person who may control the installation;
 - (b) location where each installation is to be placed, which shall be in compliance with the requirements set out in Subsection 743-3G;
 - (c) the name of the publication(s) to be offered for distribution;
 - (d) two (2) coloured drawings or photographs of the proposed installation, clearly showing height, width and depth dimensions;

- (e) description of the material from which the installation is constructed and the door closure mechanism; and
 - (f) certification of the recycled fibre content of the publication to be dispensed.
- (2) All installations shall be constructed of durable material satisfactory to the General Manager.
- (3) No person shall sell or dispense, or permit the sale or dispensing, of any item from a publication dispensing kiosk other than one or more publications.
- (4) No application will be accepted after September 8, 2004, for a permit for the placing or installation of new installation, provided that this will not apply to prevent the placing or installation of these structures by or on behalf of the City under a consolidated street furniture program.
- (5) The moratorium on the acceptance of applications under Subsection C(4) for the placing or installation of new publication dispensing boxes under Subsection G(4) shall continue until October 1, 2006.
- (6) Every Applicant shall provide and maintain public liability and property damage insurance with an insurer satisfactory to the General Manager naming the City as an additional insured, in an amount not less than \$2,000,000.00, in a form approved by the Deputy City Manager and Chief Financial Officer, and shall file a certificate of insurance with the application evidencing the form and amount of coverage, a cross-liability/severability of interests clause; a provision that the insurance is primary before the insurance of the City and that the insurer shall provide the City with thirty (30) days' notice of any intention to cancel or not renew the policy.
- (7) Any application which does not include all of the information, insurance and the applicable fees as required under this § 743-3 at the time that the application is made shall be deemed to be incomplete and shall not be processed until such time as all required information is provided and the fees are paid.
- (8) Prior to issuance of the permit and commencement of placement or installation of the publication dispensing box, unit or kiosk, the applicant shall agree, in a form satisfactory to the City Solicitor, to indemnify and save the City, its elected officials, officers, employees and agents, harmless with respect to any action, cost, claim, loss, injury or damage whatsoever arising from the

placement or installation and occupation of the street by the installation.

- (9) Any information submitted as part of an application for a permit which the applicant identifies as proprietary and confidential, shall be treated as confidential and, except where required by law, shall not be revealed to any person without the consent in writing of the applicant, until the permit is issued pursuant to § 743-3(D) or the applicant appeals the decision of the General Manager pursuant to § 743-3(F).

D. Issuance of Permit

- (1) Where an application meets the requirements of this Section and all applicable fees have been paid, the General Manager shall issue the required permit.
- (2) Subject to Subsections D(4), D(5) and H, a permit issued under this § 743-3 shall be for a term of one (1) year, and shall renew automatically on January 1 of each year provided that the permit holder has paid the fees as required under this Section and is not in violation of this Section or the agreement.
- (3) A permit issued for an installation shall not be transferred or assigned in any manner whatsoever by the permit holder without the consent of the General Manager. For the purposes of this Subsection, “assignment” or “transfer” shall not include a transfer to an affiliate, subsidiary or holding corporation of a corporate permit holder or a change in control of ownership in a corporate permit holder. No assignment shall be permitted under this Section, with or without consent unless the permit holder is in compliance with this Section and the agreement and proposed the assignee has first entered into an agreement with the City as required under this Section.
- (4) Any permit for an installation may, provided that the permit holder is first given an opportunity to be heard, be suspended or revoked at any time by Council for failure to comply with the provisions of this by-law or an agreement.
- (5) Despite Subsection D(4), the General Manager may, at the sole expense of the permit holder, require the temporary relocation of an installation or order the temporary suspension or revocation of a permit in the following circumstances:
 - (a) where required in the interests of pedestrian, vehicular or public safety;

- (b) where required to accommodate a special event; or
 - (c) where required to accommodate the installation, construction, maintenance or repair of a street, transit facilities or a public utility or service.
- (6) Neither the City, the Toronto Transit Commission or a public utility shall be responsible for any claim for loss or damage as a result of a relocation, suspension or revocation under Subsections D(4) or (5).

E. Rejection of Permit Application

- (1) The General Manager shall reject an application for a permit where the application for the permit does not comply with the requirements of this § 743-3.
- (2) The General Manager shall provide an applicant whose application for a permit has been refused with written reasons for the refusal at the time that the applicant is advised of the refusal.

F. Appeals

- (1) Any applicant whose application for a permit has been refused may appeal the decision of the General Manager and request to be heard by Community Council or, where the locations requested fall within more than one Community Council area, the Works Committee, by filing with the General Manager, within thirty (30) days of the General Manager's written decision, a notice of appeal requesting the right to be heard and including the applicant's contact information, grounds for the appeal and any related submissions.
- (2) Upon receipt of an appeal notice as set out in Subsection F(1), the General Manager shall prepare and forward a report to Community Council or Works Committee that shall include:
 - (a) the application;
 - (b) the General Manager's decision and reasons for the refusal to issue the permit; and
 - (c) the notice of appeal.
- (3) Following receipt of the report prepared by the General Manager, the Community Council or Works Committee shall provide the applicant with the opportunity to be heard, after which time the

Community Council or Works Committee shall recommend that Council either:

- (a) confirm the original decision made by the General Manager;
- (b) refer the matter back to the General Manager and direct the General Manager to reconsider the matter having regard to such considerations or directions as the Committee, Community Council or Council may recommend; or
- (c) direct the General Manager to issue a permit on such terms and conditions as Council may determine.

G. Requirements

- (1) No person shall place, install or maintain an installation on any street except in compliance with the provisions of this § 743-3 and the agreement.
- (2) No installation shall be placed, installed or maintained:
 - (a) within an area comprised of the corner radius of any intersection and an additional two (2) metres measured from the radius along each curb or roadway edge;
 - (b) in any curb cut designed to facilitate access by disabled persons or within one (1) metre of the curb cut;
 - (c) within any driveway or six tenths (0.6) of a metre of any driveway;
 - (d) within two (2) metres of a fire hydrant or other fire service connection;
 - (e) within one (1) metre of a traffic signal or other utility pole to which pedestrian activation buttons are attached, decorative street light pole, tree or bicycle ring;
 - (f) within any bus or streetcar stop, crosswalk or pedestrian cross-over, or in a manner as to interfere with boarding, disembarking, or queuing by transit passengers, or pedestrian movement;
 - (g) on, over or within any part of the travelled surface of the portion of the street, including any curb;

- (h) unless a minimum of two and one-tenth (2.1) metres of sidewalk width immediately adjacent to the installation is maintained clear of all obstructions and available for uninhibited pedestrian passage;
- (i) despite Subsection G(2)(h), where the sidewalk is one and one half (1.5) metres or less in width, unless the installation is located on a paved portion of the boulevard and set back a minimum of six tenths (0.6) of a metre from the edge of sidewalk so as to create at least two and one-tenth (2.1) metres of space clear of all obstructions for uninhabited passage;
- (j) in a manner that obstructs driver, or pedestrian sight lines, or otherwise compromises public safety;
- (k) within the area of a semicircle on the entrance side of a transit shelter, or any entrance to the Toronto Transit Commission subway system, having a diameter of no less than the length of the transit shelter or the width of the subway system entrance, so that an unobstructed access to or from the transit shelter or subway system entrance is maintained;
- (l) on top of, or in a manner that interferes with access to, use of, or causes damage to any utility maintenance hole, vault, pole or other equipment or permitted encroachment;
- (m) where placed adjacent to a curb or edge of roadway, any closer than one half (0.5) metre from the curb face, or any closer than three (3) metres from the edge of roadway on streets without curbs, measured from the side of the box, unit or kiosk closest to the curb or edge of the roadway;
- (n) on any unpaved surface, lawn, shrub, tree or other landscaping within a boulevard or in a manner so that the placement or use of the installation may damage the boulevard;
- (o) in a manner such that it is bolted to a sidewalk or other hard-surfaced portion of the boulevard, or chained to a decorative streetlight or utility pole, transit stop poles, or other City street furniture, unless expressly designated for such purpose, or attached with the consent of the owner of the pole or other structure;

- (p) in a manner that obstructs the sightlines of an advertising or information panel on a transit shelter or other City street furniture element within a minimum distance of twenty-five (25) metres;
 - (q) within three and sixth tenths (3.6) metres of the curb on Yonge Street, from Queen Street to Bloor Street; and
 - (r) on any local street. This does not preclude the placement of the installation at the intersection of a local street and collector, minor arterial or arterial street as set out in the City's road classification system.
- (3) Each licensed installation must have affixed to it and readily visible and legible at all times effective June 1, 2006, the contact name, address, e-mail address (if applicable) and telephone number of the owner, circulation department of the publication owner or person in control of such structure.
- (4) An installation shall remain situated at the location as approved by the General Manager, and no person shall relocate an installation unless the relocation has been authorized in advance by the General Manager.
- (5) No more than one installation per publication shall be placed at any one location, and no location shall be positioned less than forty (40) metres from any other location for the same publication, except that this shall not apply to prevent locations at two corners of the same intersection.
- (6) Where multiple publication dispensing boxes are placed at a location, they must be arranged in a single linear pattern, satisfactory to the General Manager and, where a "T-bar" or similar railing device is provided for the express purpose of securing publication dispensing boxes, no box will be permitted at the location unless it is so attached.
- (7) Any concrete pad, "T-bar" or similar railing device required to be installed for the placement or installation of an installation will be installed by the applicant, at the sole expense of the applicant, to the satisfaction of the General Manager.
- (8) The maximum dimensions of any publication dispensing box or unit inclusive of any ballast shall be as follows:
 - (a) a height of one and three tenths (1.3) metres from grade;
 - (b) a width of six tenths (0.6) of a metre; and

- (c) a depth of six tenths (0.6) of a metre.
- (9) The dimensions set out in Subsection G (8) shall apply to all applications received under this § 743-3, and shall come into effect on January 1, 2009, with respect to any box or unit for which a permit has been issued as of the date that this § 743-3 comes into force.
- (10) Subsection G (8) shall not apply to any publication dispensing unit that may be developed and deployed by or on behalf of the City under a consolidated street furniture program.
- (11) In the event that a publication dispensing unit is deployed by or on behalf of the City under a consolidated street furniture program, no individual publication dispensing box or unit shall be permitted at the same location(s).
- (12) Every person who owns or controls a publication dispensing box, unit or kiosk shall:
 - (a) place or install each installation in a manner that will ensure it cannot be tipped over;
 - (b) provide each installation with a secure self-closing door in good working order at all times to prevent the entry of snow, wind and rain, and to deter litter generation and use of the installation as a garbage receptacle;
 - (c) maintain each installation in a neat, clean and rust-free condition at all times, including the removal of all graffiti, posters and third party advertising however affixed to the installation, within twenty-four (24) hours of becoming aware of the condition; and
 - (d) remove any garbage or litter accumulation in and around the installation within twenty-four (24) hours of becoming aware of the condition.
- (13) Every person who owns or controls an installation shall regularly monitor the condition and arrange for the pick-up and removal of surplus or stale-dated publications and any associated packaging. No person shall cause or permit these materials to be left in or near the installation, at the curbside or deposited into City litter or recycling receptacles.
- (14) No person who owns or controls an installation permitted under this § 743-3 shall allow the installation to go unstocked with

current publications for a period of more than seven (7) consecutive days unless the door of the installation is secured.

- (15) Where an installation is left unstocked for a period greater than twenty-one (21) consecutive days, the General Manager may require that the permit holder remove the installation at no cost to the City.
- (16) Any installation that has been damaged or vandalised shall be repaired, replaced or removed by the owner or person in control within forty eight (48) hours of becoming aware of the condition, provided that where the damage or vandalism causes a danger to the public or property, the owner or person in control shall, upon notice from the General Manager, take immediate action to remedy the unsafe condition.
- (17) No electrical connection shall be permitted to any installation, except where the unit is a component of a City consolidated street furniture program.
- (18) No advertising, notices or signs shall be permitted on an installation other than the name of the publication, price or features contained within or sponsored by the publications, or advertising promotions sponsored by the publication which shall be displayed only on one (1) side of the installation, provided that the restriction of advertising the name of the publication, price or features contained within the publication to one side of the installation shall take effect on January 1, 2009 with respect to any installation for which a permit has been issued as of the date that this § 743-3 comes into force. Despite anything else in this paragraph, third party advertising is expressly prohibited, except where a unit is a component of a City consolidated street furniture program.
- (19) All paper material used in publications dispensed by means of the installations permitted under this § 743-3 shall contain at least forty percent (40%) recycled fibre calculated based on the aggregate weight of recycled fibre content used in the total production of the publication distributed from the installation in City street, provided that this requirement shall not come into effect until June 1, 2006 for those areas of the City not subject to this regulation at the time that this Section comes into force.
- (20) A publication dispensing box which otherwise complies with the criteria of this Subsection G shall be located in a position satisfactory to the General Manager, having regard to such matters as the position of any existing installation at the location, the volume of pedestrian traffic at the location, snow removal, sidewalk cleaning and maintenance, vehicular traffic and safety,

sight distances and any other public uses of the street in the vicinity of the location.

- (21) The City or any utility may enter the area occupied by an installation for the purpose of doing any work within the street, including the installation or maintenance of utility equipment.
- (22) On or before December 15 of each year, every person who has a permit with the City for the placement, installation and maintenance of one or more installations shall provide, on the prescribed form, to the General Manager:
 - (a) a detailed, accurate, up-to-date inventory of all such structures located on, along and within the City's streets; and
 - (b) Subject to Subsection G (19), written verification of the amount of recycled fibre content comprising the publications placed in the structures for the previous twelve (12) month period, including confirmation by the paper supplier.

H. Seizure and Disposal

- (1) Any installation that has been placed or maintained contrary to Section § 743-3 or contrary to any permit or agreement shall be removed by the owner or authorized agent within forty-eight (48) hours of notification, failing which the General Manager or any person authorized by the General Manager may seize and remove from the street the installation which has been placed or maintained contrary to this § 743-3, or contrary to any permit or agreement, and the General Manager shall store any installation so seized, and shall return any installation to the owner upon the owner paying to the City the costs of removal and storage of the installation, plus administration costs as set out in Subsection 743-3I(4) below. Despite any other provision of this § 743-3, no prior notice shall be required in the event that the installation, in the opinion of the General Manager, poses a risk to public safety.
- (2) The General Manager may dispose of any installation so seized at the expiry of thirty (30) days from the later of the date of seizure of the installation and the date notice of the seizure is given to the owner of the installation.

I. Fees

- (1) Effective January 1, 2006, the fees (2006) to be paid for the placement and on-going maintenance of a publication dispensing box or unit on a street of the City shall be:
 - (a) \$25.00, plus GST annually, for the first one hundred (100) publication dispensing boxes or units placed and maintained by a licensee; and
 - (b) \$100.00, plus GST annually, for each additional publication dispensing box or unit placed and maintained by a licensee.
- (2) Where an application is made to the General Manager for an installation under this Section, the applicant shall be charged a non-refundable administration, survey and inspection fee (2005) in the amount of \$62.59 per box or unit plus GST.
- (3) The fees (2005) to be paid for the placement and on-going maintenance of a publication dispensing kiosk on a street of the City shall be:
 - (a) the greater of \$280.00 or \$280.00 per square metre of street occupied, plus GST annually;
 - (b) where an application is made to the General Manager for a publication dispensing kiosk under this Section, the applicant shall be charged a non-refundable administration, survey and inspection fee in the amount of \$68.27 plus GST per kiosk.
- (4) The fee (2005) to be paid in the event of removal, storage and release by the City of an installation under Subsection 743-3H shall be \$300.00, plus any applicable taxes, per installation or structure, and must be paid prior to the release of the installation or structure.
- (5) All fees specified in Subsections 743-3I(1), (2), (3) and (4) 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 October 1 in the year immediately preceding the rate increase date.

- 2.** The following by-laws shall be repealed:
- (1) By-law No. 1-87, as amended, To permit newspaper boxes on untravelled portions of the street (East York);
 - (2) Section 3A of By-law No. 3343-79, as amended, Respecting streets in the borough of York (York);
 - (3) By-law No. 11683, as amended, With respect to newspaper boxes in the Township of Scarborough (Scarborough);
 - (4) By-law No. 31680, as amended, Respecting the leasing and licensing of municipal boulevards for the purposes of the location of newspaper vending boxes (North York);
 - (5) Municipal Code Chapter 171, Newspapers (Etobicoke); and
 - (6) Section 313-44 of Municipal Code Chapter 313, Streets and Sidewalks (Toronto).
- 3.** Despite Section 2 above and consistent with Subsection 783-3I(1), the annual fee requirements contained in the by-laws listed in Section 2 shall continue in force until December 31, 2005.

ENACTED AND PASSED this 7th day of December, A.D. 2005.

DAVID R. MILLER,
Mayor

ULLI S. WATKISS
City Clerk

(Corporate Seal)