

A BYLAW OF THE CITY OF VICTORIA

to authorize the use and maintenance of certain fixtures and other structures on, over or under sidewalks within the City of Victoria.

WHEREAS from time to time portions of buildings may project into or encroach upon City sidewalks; and

WHEREAS many businesses maintain and use areas beneath the sidewalks of the City; and

WHEREAS Section 14 of the Victoria City Act, 1919, provides that Council may make bylaws for the regulation of such uses under, over and on sidewalks;

NOW THEREFORE the Municipal Council of the Corporation of the City of Victoria enacts as follows:

1. This bylaw may be cited as "SIDEWALK FIXTURES (ENCROACHMENT AND BASEMENT) BYLAW."
2. (1) Where any owner in possession or any occupant of property which is used for commercial purposes and which abuts on a City sidewalk, lane or street uses or maintains any space beneath the sidewalk, lane or street for the purposes of its business, that person shall apply to the City Engineer for a permit to authorize the existing use.
- (2) Where any owner in possession or any occupant of property which is used for commercial purposes and which abuts on any City sidewalk, lane or street uses or maintains any space beneath the sidewalk, street or lane for the purposes of its business and applies to the City for a building permit concerning his property, that person shall apply to the City Engineer for a permit to authorize the existing use of the City sidewalk, street or lane.

3. (1) Where any owner in possession or any occupant of property which is used for commercial purposes learns or is advised that a portion of his building encroaches on or over a City sidewalk, street or lane that person shall apply to the City Engineer for a permit to authorize the existing encroachment on the sidewalk, lane or street.

(2) Any permit issued pursuant to this section shall remain valid for the life of the building and apply only to the building as it exists when the permit is issued.
4. Any applicant for a permit to authorize the encroachment of any building or structure as set out in Section 3 shall pay a fee of \$50.00 and shall comply with the provisions of this bylaw.
5. (1) Any applicant for a permit pursuant to Section 2 of this bylaw shall pay a fee of \$50.00 plus, annually, a fee of \$10.00 per m² or \$300.00 whichever is lesser for the space which is being used under any sidewalk, lane or street and shall comply with the provisions of this bylaw.

(2) Where any person uses or maintains any space beneath a sidewalk, street or lane and that person applies for a building permit, the City Engineer in order to confirm the safety of the sidewalk may require a satisfactory report from a professional engineer certifying the structural integrity of the basement area, including support of the sidewalk, street or lane above the area, in support of the building permit application.
6. Any holder of a permit issued pursuant to this bylaw shall allow the City Engineer or any public utility such as British Columbia Hydro & Power Authority and British Columbia Telephone Company and their employees or agents to enter the premises for any reasonable purpose which may include the installation, maintenance or repair of any pipes, cables, wires, poles or other installations owned by the City or the public utility.

7. The holder of a permit issued pursuant to this bylaw shall indemnify and save harmless the City from any action, claim, damage or loss whatsoever arising from the use of the sidewalk or space above or below a sidewalk or anything undertaken or neglected to be undertaken in connection with the permit.
8. Any holder of a permit shall not use the sidewalk or any portion under or over it for any purpose other than that set out in the permit which it has been issued.
9. Where the City intends to reconstruct any street or where any building is destroyed or deemed to be destroyed, by resolution of its Council, the City may revoke any permit issued pursuant to this bylaw and the permit holder shall at his own cost and expense remove any structure or discontinue any use upon 60 days notice in writing from the City Manager and the holder shall not make any claim against the City on account of such removal or termination.
10. (1) Upon the termination of the permission for the use of any portion of a sidewalk or any area below or above a sidewalk, the permit holder shall replace and restore the sidewalk to a safe and proper condition to the satisfaction of the City Engineer.

(2) Where the termination of permission involves the use of an area below the sidewalk, the permit holder shall seal the area below the sidewalk from the basement at its own cost after obtaining a building permit to authorize the work.
11. Where any holder of a permit which has been revoked or terminated pursuant to this bylaw fails to restore the condition of the sidewalk or seal off the basement area within the time specified in the notice from the City Manager, the City Engineer may cause the basement area to be sealed and restore the sidewalk to a safe and proper condition and charge the cost to the permit holder.

12. The costs referred to in the preceding section, when certified by the City Engineer, shall be final and the City may recover such costs from the permit holder in any Court of competent jurisdiction as a debt owing by the permit holder to the City.
13. Where any permit holder assigns or transfers permission for the use of the sidewalk or portion beneath the sidewalk to any other person or transfers property adjacent to the sidewalk for which permission has been granted, the permit shall be deemed to be assigned to any successor in title to the land of the permit holder and the successor shall be bound by the provisions of this bylaw.
14. The provisions of this bylaw do not apply to any legal sidewalk cafe for which a permit has been issued pursuant to the Sidewalk Fixtures (Sidewalk Cafes) Bylaw.
15. Any applicant for a permit pursuant to this bylaw shall make a written application in the form set out in Schedule "A" to this bylaw.
16. Any person who contravenes any provision of this bylaw is liable, upon conviction, to the penalties prescribed in the Offence Act.

Passed and received third reading by the Municipal Council the 26th day of January 1989.

Reconsidered and adopted by the Municipal Council the 9th day of February 1989

"M. JOHNSTON"

"G. BREWIN"

CITY CLERK

MAYOR

CORPORATION OF THE CITY OF VICTORIA
ENGINEERING DEPARTMENTPERMIT - SIDEWALK FIXTURES (ENCROACHMENT AND BASEMENT) BYLAW

APPLICANT	Name: _____
	Address: _____
	Telephone No: _____
	☐ - property owner ☐ - property occupant

I am applying pursuant to Victoria City Bylaw No. 89-17, "Sidewalk Fixtures (Encroachment and Basement) Bylaw" for a permit:

- ☐ - To authorize the existing use of space beneath the sidewalk, lane or street
- ☐ - To authorize the existing encroachment of a portion of a building on or over a City sidewalk, street or lane

I confirm that the area described or shown on the attached schedule accurately defines the permit area.

Application fee \$ _____

Annual fee \$ _____

Upon the issuing of this permit I hereby agree to abide by all the provision of Bylaw 89-17

Applicant

OFFICIAL USE	
Date of permit issuance _____	
_____ City Engineer	Permit No. _____