

**THE CORPORATION OF THE CITY OF WINDSOR
OFFICE OF THE CITY ENGINEER- Engineering**

**MISSION STATEMENT:**

"Our City is built on relationships – between citizens and their government, businesses and public institutions, city and region – all interconnected, mutually supportive, and focused on the brightest future we can create together."

LiveLink REPORT #: 16946 SE2014	Report Date: January 14, 2013 (PW#3723/ls-01/21/14:eb)
Author's Name: Adam Pillon	Date to Council: February 3, 2014
Author's Phone: (519) 255-6257 ext. 6612	Classification #:
Author's E-mail: apillon@city.windsor.on.ca	

To: Mayor and Members of City Council

Subject: Newspaper Vendor Boxes Encroachment – Toronto Star

1. RECOMMENDATION:

City Wide: Ward(s):

That the request by the Toronto Star to permit newspaper vendor boxes onto the right-of-way **BE APPROVED**, subject to the owner entering into an encroachment agreement, satisfactory in legal content to the City Solicitor and in technical content to the City Engineer, and to comply with the following terms and conditions:

- a) Pay a \$225.00 (includes 5% G.I.S. charge) encroachment application fee to the Engineering Department;
- b) Indemnify the City of Windsor against all claims which may arise by reason of its occupying sections of the public right-of-way herein before listed and file with the Risk Management Supervisor a copy of its insurance policy in the minimum amount of \$2,000,000.00, with a cross liability endorsement, and showing the City as an additional insured, satisfactory in form to the Risk Management Supervisor;
- c) Pay a \$250.00 fee to the Engineering Department for the preparation of the agreement, to be signed by the property owner;
- d) Pay a surcharge in the amount of \$100.00, as required by Council Resolution 699/85, to the Engineering Department;
- e) Pay an annual encroachment fee of \$25.00, calculated according to Council Resolution 425/81, and any and all applicable provincial and federal land taxes, etc;
- f) Pay an annual billing and inspection fee of \$25.00 per location to the Engineering Department;
- g) Remove the encroachment(s) and restore the area within 5 days to the condition of the surrounding area upon receipt of written notice by the City Engineer to do so;

- h) The applicant agrees to obtain a Street Opening Permit at a cost of \$208.00 for the subject encroachment;
- i) Subject to compliance with City Standards AS-544 (Appendix A) and at the locations noted on C-3207 and Appendix B;
- j) Appendix B may be amended from time to time as locations are added or deleted, subject to the appropriate approvals being obtained.

and further that the Chief Administrative Officer and City Clerk **BE AUTHORIZED** to sign the agreement, satisfactory in legal form to the City Solicitor and in technical content to the City Engineer, in accordance with CR748/2004 as the authority for Category "B" encroachments.

EXECUTIVE SUMMARY:

N/A

2. BACKGROUND:

An application has been received from The Toronto Star, requesting permission to encroach eleven (11) newspaper vendor boxes currently placed onto the public right-of-way. The newspaper vendor box locations are throughout the City, and are identified on C-3207 and Appendix B.

In the past encroachment agreements were not required for newspaper vendor boxes. In order to mitigate the Corporations exposure to liability and/or damage claims which may arise from the encroachments on the right-of-way, a formal agreement is required.

3. DISCUSSION:

The typical newspaper vendor box encroaching on to the public right-of-way occupies an area of approximately 0.4 square meters (4 square feet) per unit. The arrangement of the various newspaper vendor boxes differs from location to location as shown in figures 1 & 2 below.

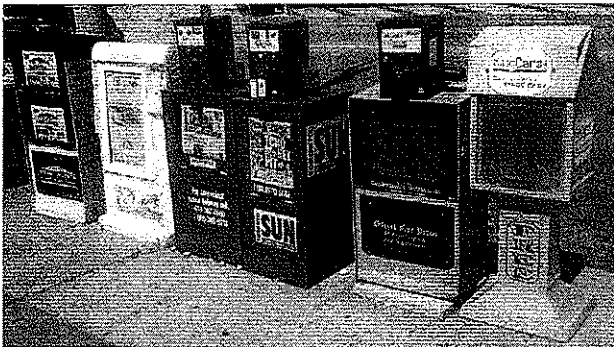


Figure 1



Figure 2

This creates both a visual eye sore and cluttering effect of the right-of-way, may impede pedestrian movements on the sidewalk and in some cases can become a sight-line issue for motor vehicles at major intersections.

In an effort to address the issues noted above, AS-544 City Standard for Vendor Box locations was developed and is attached as Appendix A. The applicants will be required to align vending boxes parallel to the adjacent roadway to reduce the cluttering affect along the sidewalk, and ensure a minimum 2.4 meter (8 foot) clear pedestrian pathway is maintained at all times.

To assist people with a visual impairment, the Diversity and Accessibility Officer would prefer the vending boxes be a bold colour, rather than a white or silver colour. The Toronto Star vending boxes are blue.

All vendor boxes must comply with the new City Standard for Vendor Box locations, and are limited to a maximum of five (5) units per location, based on a first come first serve basis.

4. RISK ANALYSIS:

The encroachment may present a future risk of a damage/liability claim. This is a low risk, which is mitigated by the owners' insurance requirements in the agreement.

5. FINANCIAL MATTERS:

The annual encroachment fee of \$25.00, calculated according to CR 425/81:

Encroachment Formula

$$\text{Area} \times \text{Value of Land} \times \text{Land Value Factor (1.25)} \times \text{Interest (4\%)} \times 11 \text{ units} = \text{Encroachment Fee}$$

$$4 \text{ sq. ft} \times \$10.00 \times 1.25 \times 0.04 \times 11 = \$22.00, \text{ therefore } \$25.00 \text{ minimum fee applies}$$

Therefore, the annual encroachment fee of \$25.00 plus the annual billing and inspection fee of \$25.00 per location (11) are applicable for the total of \$300.00.

The status of all fees and deposits are summarized in the table below:

ITEM	AMOUNT	NOTE
Application fee	\$ 225.00	Paid
Legal agreement preparation	\$ 250.00	Paid
Surcharge under CR699/85	\$ 100.00	Paid. Refundable after the agreement is signed.
Annual encroachment fee	\$25.00	Payable upon approval.
Annual billing & inspection fee	\$ 275.00	Payable upon approval.
Permit fee	\$ 208.00	Payable upon approval.
TOTAL FEES	\$1083.00	

6. CONSULTATIONS:

The following have been consulted/notified on this application.

- City of Windsor
 - Engineering Department
 - Operations Department – Andrew Lewis
 - Operations Department – Phong Nguy
 - Human Resources – Gayle M. Jones

- Vendor Owner
 - Rick Bowen, Toronto Star
 - Tim Parent, Distributor

7. CONCLUSION:

Checklist:

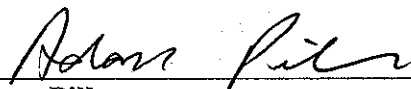
TYPE: Category "B" Encroachment - Not Requiring Council Approval

AUTHORITY: CR899/85 & CR748/2004 & By-law 208-2008, section 3.2

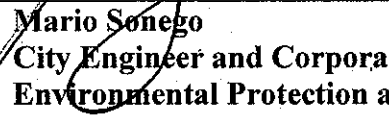
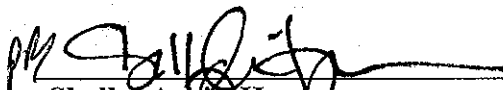
The Chief Administrative Officer has authority to approve, on the recommendation of the Chief Building Official/City Engineer, Category "B" Encroachments, i.e., those that are incidental in nature and do not affect the structural integrity of a building. Minor encroachments do not require a survey or legal description, and are not to be registered on Title. The Chief Administrative Officer and the City Clerk have authority to sign the resultant agreement.

This type of encroachment is typically approved by the Chief Administrative Officer. Administration recommended Council approval for this encroachment given the similarities to the street furniture matter that has recently been considered by Council.

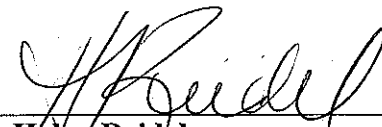
Administration would recommend approval of the request, subject to the owners' acceptance of the recommendations of this report and entering into an encroachment agreement.



Adam Pillon
Technologist I (A)


Mario Sonogo
City Engineer and Corporate Leader
Environmental Protection and
Transportation

Shelby Askin Hager
City Solicitor



Helga Reidel
Chief Administrative Officer

AP/Is

Appendices: Drawing C-3207

Appendix A – AS-544 City Standard for Vendor Boxes

Appendix B – List of Vending Box Locations

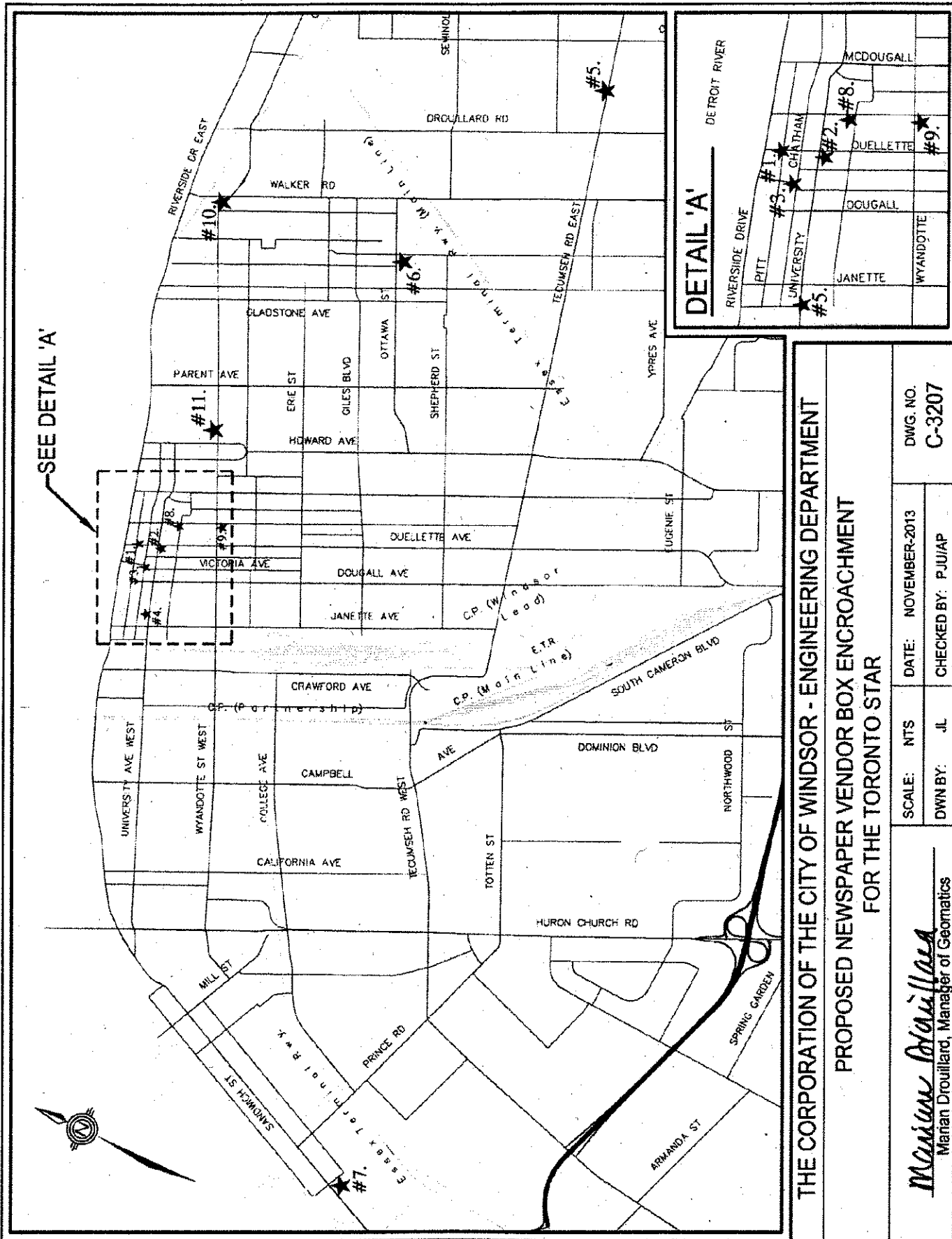
Note: All *Insurance Certificates* to be directed to and approved by the Risk Management Supervisor. Any evidence of insurance must be to the satisfaction of the Risk Management Supervisor. As such, all operating areas and service units are to forward any Insurance Certificates to the Risk Management Supervisor who will review and approve them or contact the broker to request amendments.

DEPARTMENTS/OTHERS CONSULTED:

Name:

Phone #:

NOTIFICATION :			
Name	Address	Email Address	Telephone
The Toronto Star Attn: Rick Bowen	1 Yonge St Toronto ON M5E 1E6		905-265-5227
Ward 1 Councillor Drew Dilkens	c/o 350 City Hall Sq W Windsor, ON N9A 6S1	ddilkens@city.windsor.on.ca	519-250-4607
Ward 2 Councillor Ron Jones	c/o 350 City Hall Sq W Windsor, ON N9A 6S1	rjones@city.windsor.on.ca	519-252-1005
Ward 3 Councillor Fulvio Valentinis	c/o 350 City Hall Sq W Windsor, ON N9A 6S1	fvalentinis@city.windsor.on.ca	519-977-5067
Ward 4 Councillor Allan Halberstadt	c/o 350 City Hall Sq W Windsor, ON N9A 6S1	ahalberstadt@city.windsor.on.ca	519-973-8323
Ward 5 Councillor Ed Sleiman	c/o 350 City Hall Sq W Windsor, ON N9A 6S1	esleiman@city.windsor.on.ca	519-944-7058
Ward 6 Councillor Jo-Anne Gignac	c/o 350 City Hall Sq W Windsor, ON N9A 6S1	joagignac@city.windsor.on.ca	519-945-4434
Ward 7 Councillor Irek Kusmierczyk	c/o 350 City Hall Sq W Windsor, ON N9A 6S1	irek@city.windsor.on.ca	519-946-1111
Ward 8 Councillor Bill Marra	c/o 350 City Hall Sq W Windsor, ON N9A 6S1	bmarra@city.windsor.on.ca	519-948-0900
Ward 9 Councillor Hilary Payne	c/o 350 City Hall Sq W Windsor, ON N9A 6S1	hpayne@city.windsor.on.ca	519-972-6071
Ward 10 Councillor Al Maghnieh	c/o 350 City Hall Sq W Windsor, ON N9A 6S1	amaghnieh@city.windsor.on.ca	519-962-5921
Purchasing & Risk Management Attn: Dana Straus		dstrauss@city.windsor.on.ca	519-255-6100

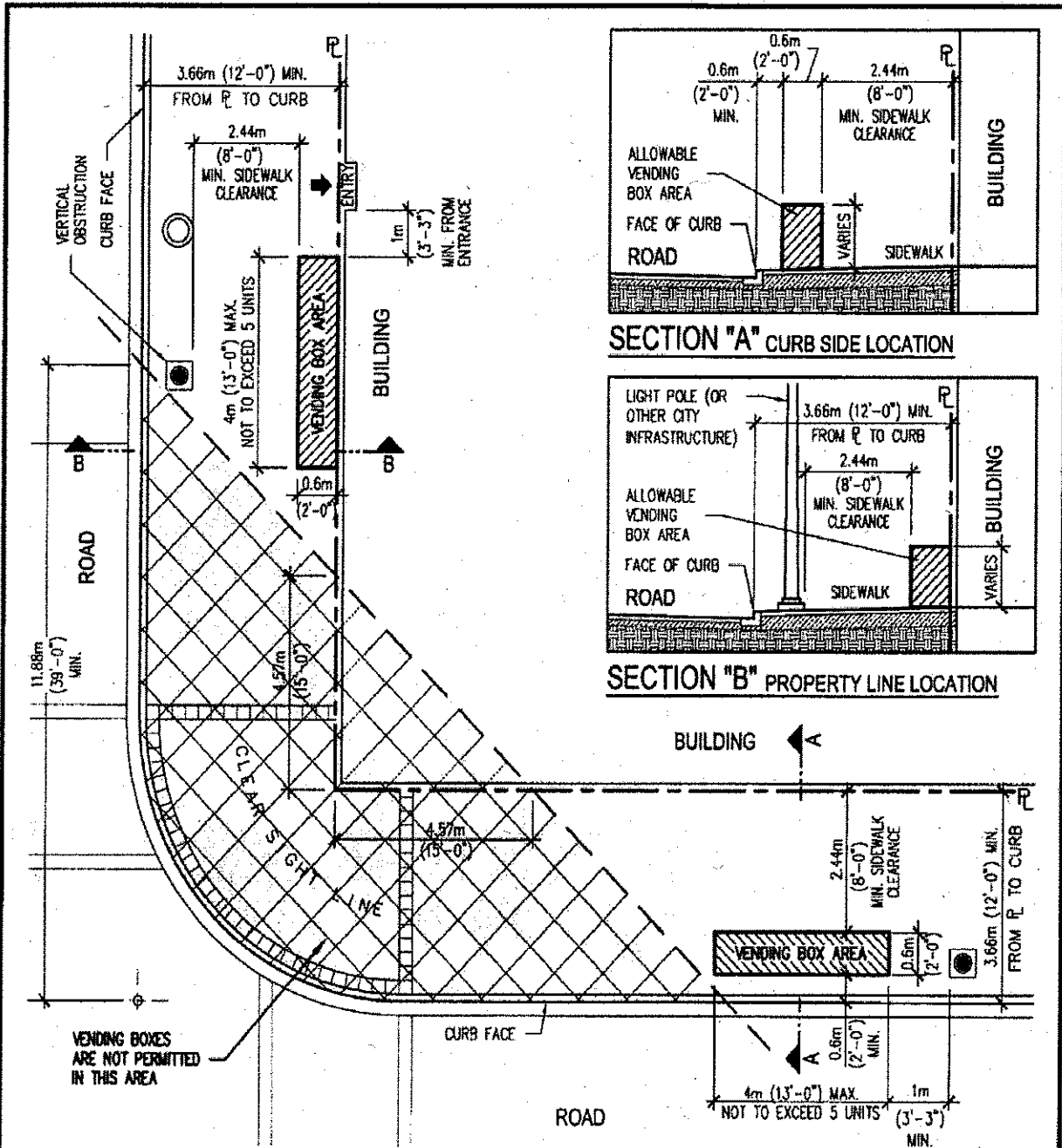


THE CORPORATION OF THE CITY OF WINDSOR - ENGINEERING DEPARTMENT
 PROPOSED NEWSPAPER VENDOR BOX ENCROACHMENT
 FOR THE TORONTO STAR

SCALE: NTS
 DWN BY: JL
 DATE: NOVEMBER-2013
 CHECKED BY: P.JUIAP
 DWG. NO. C-3207

Manian Drouillard
 Manian Drouillard, Manager of Geomatics

APPENDICIES "A"



TYPICAL INTERSECTION PLAN

NOTES:

- 1.) 1 METRE SEPARATION FROM VERTICAL STRUCTURES TO VENDING BOXES. (IE, LIGHT STANDARD, BENCHES, GARBAGE CANS, PARKING SIGNS, TREES, ETC. THIS INCLUDES MANHOLES, WATER VALVES, DRIVEWAYS, ETC.)
- 2.) VENDING BOX MUST BE WEIGHTED WITH BALLAST TO PREVENT TIPPING.
- 3.) VENDING BOX MUST NOT BE PLACED IN FRONT OF ANY PARKING AREAS.
- 4.) VENDOR BOX ARE SUBJECT TO THE APPROVAL OF WINDSOR TRANSIT, TRANSPORTATION PLANNING, AND THE PLANNING DEPARTMENT.
- 5.) A MINIMUM OF 2.44m (8'-0") CLEARANCE TO MAINTAIN A CLEAR PEDESTRIAN AISLE.

CITY OF WINDSOR	
ENGINEERING DEPARTMENT	
VENDING BOX STANDARD	
DR'N BY: AJC	DATE: JUNE, 2011
REVISION:	CH'KD BY: P. UBENE
CH'KD BY:	PASSED BY:
 CITY ENGINEER	AS-544

APPENDICES "B"

Newspaper Vender Box Location for the Toronto Star

Intersection			
Location No.	East/West Street	North/South Street	Location
1	Pitt Street West	Ouellette Avenue	North/West Corner
2	University Avenue West	Ouellette Avenue	South/West Corner
3	Chatham Street West	Ferry Street	North/West Corner
4	University Avenue West	Bruce Avenue	North/West Corner
5	Tecumseh Road East	Chandler Road	North/West Corner
6	Ottawa Street	Kildare Road	North/East Corner
7	Sandwich Street	Chappel Avenue	South/East Corner
8	Park Street East	Goyeau Street	North/West Corner
9	Wyandotte Street East	Goyeau Street	South/West Corner
10	Wyandotte Place	Walker Road	North/East Corner
11	Wyandotte Street East	Marentette Avenue	North/East Corner

11 TOTAL ENCROACHMENTS