

## **ENCROACHMENT AGREEMENTS** **INFORMATION PACKAGE**

### **GENERAL INFORMATION:**

The City of Peterborough is authorized, under the provisions of the *Municipal Act*, 2001, S.O, 2001. c.25, s.11, to enter into Encroachment Agreements with property owners in the municipality. An Encroachment Agreement is an agreement in the nature of a licence, whereby the City acknowledges and permits either a building, or a projection from a building, to encroach upon a municipal road allowance, or other City-owned property. Most frequently, this involves a building which has been inadvertently constructed on a road allowance and has existed for a number of years. It may also apply to a new building or a projection from a building which is proposed to encroach on to a road allowance, on a manner which does not interfere with the use of the road. Depending on the nature and extent of the encroachment, there may be an annual fee, which would vary with each situation.

### **RESPONSIBILITIES OF THE PROPERTY OWNER:**

1. The property owner must pay the applicable processing fee to The Corporation of the City of Peterborough, and the fee should accompany the initial request for the Encroachment Agreement.
2. The property owner is responsible for ensuring that the description of both his/her land, and the City-owned land upon which the encroachment is located, is suitable for registration of the Agreement, in the event that the owner wishes to register the Agreement.
3. In the event that the Agreement is registered on title, the City Solicitor's Office must be advised of the registration particulars.

## **PROCESS**

### **1. Step 1 - Internal Staff Review**

A letter requesting an Encroachment Agreement, together with the applicable processing fee and a sufficient sketch to adequately illustrate the nature and extent of the encroachment, are submitted to the City Solicitor's Office. The necessary City Departments are circulated, and their approval and/or concerns are conveyed to the applicant/property owner.

**CURRENT PROCESSING FEE - \$200.00**

### **2. Step 2 - Council Approval**

If approved by City Staff, the City Clerk is advised by the City Solicitor's Office to submit to City Council a By-law authorizing the execution of the Encroachment Agreement.

### **3. Step 3 - Finalization of the Agreement**

When the By-law authorizing the Agreement has been passed, the Encroachment Agreement is executed by the City and the property owner. If the property owner registers the agreement on title, the registration particulars are provided to the City Solicitor's Office. In the alternative, the property owner may confirm that the Encroachment Agreement will not be registered on title.



which may be brought against or made upon the City and against all loss, costs, damages, charges, or expenses whatsoever which may be sustained, incurred or paid by the City in consequence of the Encroachment, or otherwise by reason of the exercise by the Licensee of the permission hereby granted to maintain the Encroachment. The Licensee hereby grants to the City full power and authority to settle any action, suit, claim or demand on such terms as the City may deem advisable and hereby covenants and agrees with the City to pay to the City, on demand, all monies paid by the City in pursuance of any such settlement and also such sum which shall represent the reasonable cost to the City, or its solicitor, in defending or settling any such action, suit, claim or demand. This Agreement shall not be alleged as a defence by the Licensee in any action, by any person, for actual damage suffered by reason of the permission hereby granted to maintain the Encroachment.

3. The Licensee agrees to maintain in full force and effect property damage and public liability insurance, naming the City as an additional named insured, and with a cross-liability endorsement, in the minimum amount of One Million Dollars (\$1,000,000.00) per occurrence. The Licensee shall provide the City with a Certificate of Insurance confirming the existence of the above-noted insurance coverage in a form satisfactory to the City. Provided further that in the event the Licensee's insurance policy is cancelled or changed in any manner that would affect the City, the Licensee's insurer will be required to provide thirty (30) days prior written notice by mail or facsimile transmission.

4. The Licensee shall not acquire any right, title or interest in or to the City's property or public road allowance, or the portion thereof affected by the Encroachment, except the right to maintain the Encroachment in accordance with this agreement.

4. The Licensee acknowledges and agrees that, should the City require the use, for public purposes, of the lands upon which the Encroachment is located, the Licensee shall, upon thirty (30) days written notice from the City, remove or relocate the encroachment, including reinstatement of the City lands, to the satisfaction of the City and at the sole expense of the Licensee.



**SCHEDULE "A"**

**(Legal Description of Property)**

**SCHEDULE "B"**

**(Location survey or sketch with Encroachment(s) shown thereon)**