



Hamilton

INFORMATION REPORT

TO:	Chair and Members Business Improvement Area Advisory Committee
COMMITTEE DATE:	May 9, 2017
SUBJECT/REPORT NO:	Extension of City of Hamilton Encroachment Policy (PED17067) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Carlo Gorni (905) 546-2424 Ext. 2632
SUBMITTED BY:	Bill Janssen Director, Open for Business Initiative Planning and Economic Development Department
SIGNATURE:	

Council Direction:

N/A

Information:

Staff has reviewed the encroachments on City Property Policy and wish to inform Council that Encroachment Agreements will not be required for the following:

- Temporary seating;
- Small scale lighting installations;
- Signs requiring building permits; or,
- Awnings requiring building permits.

In place of an Encroachment Agreement, an Acknowledgement Letter will be issued, setting out the building owner's responsibility to maintain the above items and to remove them at the City's request, all at the property owner's expense. Sample Acknowledgement Letters are attached as Appendix "A" and "B" to Report PED17067.

Building owners will be able to obtain an Acknowledgement Letter from the Business Facilitators at the City's One Stop for Business (see <https://www.hamilton.ca/starting-small-business/one-stop-business>) or, if a building permit is required, from the Building Division (see <https://www.hamilton.ca/starting-small-business/permits-inspections/building-permits-small-businesses>).

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

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This improvement is made as part of our ongoing "Open for Business" initiative and is intended to shorten the approval process, reduce costs for businesses, and to encourage businesses to animate the public realm by creating a more pedestrian friendly environment in our commercial areas.

In addition, further improvements have been made when an Encroachment Agreement is required:

- An amendment to the BIA Commercial Property Improvement Grant Program has been adopted to assist in off-setting the cost of future Encroachment Agreements. The amendment to the Program offers a 100% grant to a maximum of \$3,000 per application as part of the total grant awarded for completed construction, towards professional fees and some City of Hamilton fees.
- A similar grant is available to applicants who are approved for funding under the City's Commercial Property Improvement Grant Program and the Barton / Kenilworth Commercial Corridor Building Improvement Grant Program.

Information about these grant programs can be found at:

<http://www.investinhamilton.ca/downtown-bia/financial-incentive-programs/#commercial>,

and information about Encroachment Agreements generally at:

<https://www.hamilton.ca/home-property-and-development/property-gardens-trees/encroachment-agreements>.

The Case Study providing more detail concerning these improvements is attached as Appendix "C" to Report PED17067.

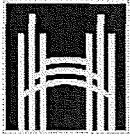
APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED17067 - Letter of Acknowledgement (1)

Appendix "B" to Report PED17067 - Letter of Acknowledgement (2)

Appendix "C" to Report PED17067 - Case Study No. 11

CG/LP/sd



Hamilton

City of Hamilton
City Hall, 71 Main Street West
Hamilton, Ontario
Canada L8P 4Y5
www.hamilton.ca

Planning and Economic Development Department
Physical Address: 71 Main Street West
Phone: 905.000.0000 Fax: 905.000.0000
Email: username@hamilton.ca

Date:

File No.:

Address:

Dear XX :

**RE: Letter of Acknowledgement - (brief description of encroachment(s))
(address that encroachment benefits)**

Thank you for contacting the City of Hamilton and informing us that [describe encroachment(s)] (the "encroachment") located at the above-noted address will/does encroach on City property. A description of the encroachment is outlined in Schedule 1 of this letter.

We have determined that your encroachment does not create any of the following risks:

- present a potential health and safety risk to pedestrian traffic;
- interfere with vehicular traffic, including blocking sight lines and viewing triangles;
- or,
- is not in the public's best interest, for any other reason as determined by the City.

If the City, at any time, determines your encroachment does create any of these risks or that its removal is necessary for any other reason, you will be required to remove your encroachment immediately and to restore the City's property to its original condition, all at your cost. Failure to comply with such a requirement may result in the City undertaking the removal and restoration and adding this cost to your tax roll.

In determining the design of your encroachment, please consider not only its installation but its removal, keeping in mind, as set out above, that you will be responsible for all cost to remove your encroachment when required to by the City.

Please confirm you have read and understood the information set out in this letter by signing the acknowledgement below and returning the letter to us. Retain a copy for your records.

**Subject: Letter of Acknowledgement - (brief description of encroachment(s))
(address that encroachment benefits) - Page 2 of 3**

Should you have any questions, contact the undersigned at (905) 546-2424 extension XXXX.

Yours truly,

[Name]
[Position]

The undersigned acknowledge that they have read and understood the information set out above.

Name:
Title: [if applicable]
I have authority to bind the corporation.

Name:
Title: [if applicable]
I have authority to bind the corporation.

BH/sd

cc: Gord McGuire, Manager
Geomatics/Corridor Management, Public Works

**Subject: Letter of Acknowledgement - (brief description of encroachment(s))
(address that encroachment benefits) - Page 3 of 3**

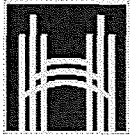
**Schedule 1
Location/Description of the Encroachment**

Location of the encroachment:

[street address, legal address, and any photographs/ drawings of where the encroachment is/will be located]

Description of the encroachment:

[provide written description of the encroachment including dimensions of the encroachment and any drawings and images.]



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City Hall, 71 Main Street West
Hamilton, Ontario
Canada L8P 4Y5
www.hamilton.ca

Planning and Economic Development Department
Physical Address: 71 Main Street West
Phone: 905.000.0000 Fax: 905.000.0000
Email: username@hamilton.ca

Date:

File No.:

Address:

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Title: [If applicable]
I have authority to bind the corporation.

Name:
Title: [if applicable]
I have authority to bind the
corporation.

BH/sd

cc: Gord McGuire, Manager
Geomatics/Corridor Management, Public Works



Hamilton

Planning and Economic
Development Department

Memorandum

Date: November 10, 2016

To: Chair and Members
Open for Business Sub-Committee

From: Jason Thorne
General Manager
Planning and Economic Development Department

Subject: **Continuous Improvement Team Process Review – Encroachment Agreements – Case Study No. 11**

BACKGROUND

The role of the Planning and Economic Development Department / Public Works Department Continuous Improvement Team (CIT) is to review select case studies after they have been through the development approvals process to identify any lessons learned and opportunities for process improvements.

In discussions with the Business Improvement Areas (BIAs), the need for Encroachment Agreements for minor extensions of buildings and materials into the road allowance was identified as an issue. The application costs \$293.70 and requires that the agreement be prepared by a solicitor for the owner which takes additional costs and time. The applicant must register the agreement on the title to the property. There is also an annual Encroachment Agreement Renewal Fee of \$56.60.

BIAs have questioned the need for agreements for nominal encroachments which take time and extra costs to process and may discourage investment in business improvements.

OBSERVATIONS AND ISSUES

Encroachments onto City property are most frequently identified through the process of selling or buying a property, through the development or building approval process, or through by-law enforcement. Encroachment Agreements are required by the City for such things as awnings, out-swinging doors, landscaping, porches and decks, outdoor boulevard cafes, portions of buildings, signs, steps and accessibility features. Encroachment Agreements are not currently required for such features as refreshment vehicles, temporary signs, fruit and vegetable stands, planters and vending machines, among others.

SUBJECT: Continuous Improvement Team Process Review – Encroachment Agreements – Case Study No. 11 - Page 2 of 3

An Encroachment Agreement is required to be able to track and manage requests for works that encroach entirely or partly in, on, under or above the City's property and is necessary to not only record what is where, but to ensure that the health and safety of the public is not in jeopardy, that it is in the public's best interest that risk and liability is appropriately apportioned, and that there is an ability to remove the works when necessary. With major roadway works, such as reconstruction and the accommodation of Light Rail Transit (LRT), the Encroachment Agreement is necessary to properly plan for works and ensure that appropriate items are removed, if required.

A policy and procedure for managing encroachments on City property was developed in response to recommendations made in Internal Audit Reports 2007-09, resulting in a written formal policy and a streamlined and simplified process that was approved by Council on April 13, 2011.

Investigation into a single master Encroachment Agreement for each BIA has been considered, with the possibility of the BIA managing such an Encroachment Agreement. This was not considered viable, as Encroachment Agreements need to be registered on title in order to give notice of their existence to future property owners and would only add an additional step into the existing approval process, involving not only the BIA, but the City and property owner as well.

As there already exists a number of features that do not require an agreement, additional works have also been considered, particularly those that require another approval such as Building Permit. The removal of any works from the requirement for an Encroachment Agreement will demonstrate the City's commitment to cutting out needless approvals and being Open for Business. These works can be monitored by way of a letter of acknowledgement.

OUTCOME

As a number of works require Building Permit review and approval, which will reduce safety risks and can be acknowledged by way of a letter of acknowledgement, rather than a formal agreement, it would be appropriate to not require agreements in these situations.

As a result of the review of this issue, the following actions will be undertaken:

- (a) An amendment to the BIA Commercial Property Improvement Grant Program has been undertaken to assist in off-setting the cost of future Encroachment Agreements. The amendment to the Program offers a 100% grant to a maximum of \$3,000 per application towards professional fees and City fees.

SUBJECT: Continuous Improvement Team Process Review – Encroachment Agreements – Case Study No. 11 - Page 3 of 3

(b) Encroachment Agreements will no longer be required for:

- Temporary seating;
- Small scale lighting features;
- Signage requiring building permit; and,
- Retractable awnings and awnings that requires Building Permit Applications.

Rather, only a Letter of Acknowledgement for these works will be required. Acknowledgement letters will be requested and kept on file by the Building Division; copies will be forwarded to Public Works.

(c) Information on this revised practice will be provided to BIAs in order to advise and assist their members.

BJ/sd