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**Item No. 12.1.6**  
**Community Planning and Economic Development**  
**December 15, 2016**

**TO:** Chair and Members of Community Planning and Economic Development  
Standing Committee

Original Signed

**SUBMITTED BY:** \_\_\_\_\_  
Bruce Zvaniga, P.Eng., Transportation & Public Works

**DATE:** November 8, 2016

**SUBJECT:** Permanent Encroachments for the Purpose of Facilitating Accessibility

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**ORIGIN**

February 18, 2016, Item 12.2.1, Community Planning & Economic Development Standing Committee

Moved by Mayor Savage, seconded by Councillor Nicoll that the Community Planning and Economic Development Standing Committee request a staff report to explore the possibility of waiving all or any of the fees payable pursuant to provisions of By-law E-200 where an existing encroachment is being enlarged or modified to facilitate barrier free access to either residential or commercial properties.

**LEGISLATIVE AUTHORITY**

Subsection 324(2) of the *Halifax Regional Municipality Charter* provides that “The Council may, by by-law, regulate encroachments upon, under or over streets, including stipulating the period of time an encroachment may remain and the entering into of agreements, including terms and conditions, for particular encroachments.”

**RECOMMENDATION**

It is recommended that the Community Planning & Economic Development Standing Committee recommend to Regional Council that staff be directed to draft amendments to By-Law E-200, the Encroachment By-law, for Regional Council’s consideration, to allow for the waiver of any or all encroachment fees for the portion of a new encroachment which is constructed to facilitate barrier free access to an existing residential or commercial property, or where an existing encroachment is being enlarged or modified to facilitate barrier free access to either residential or commercial properties.

## **BACKGROUND**

In the fall of 2014 Regional Council identified having Halifax as a leader in building an inclusive and accessible community as a Council priority outcome. This includes promoting a community in which everyone can participate fully in life, regardless of age or ability.

Structures placed in the right of way that are not owned by the Municipality are considered encroachments in accordance with By-law E-200. If a property owner wants to improve accessibility by installing a ramp in the right of way, they must make application to HRM for an encroachment license. Encroachment licenses are subject to application fees and annual rental fees.

## **DISCUSSION**

Encroachment fees are based on the area of the encroachment. By charging annual fees, the Municipality is not encouraging those who wish to make their commercial or residential property more accessible if the only way to do so is to enlarge an existing encroachment.

Section 10(b) of the current by-law (E-200 Respecting Encroachments Upon, Under, or Over a Street) gives Council the authority to waive all or any of the fees otherwise payable pursuant to any provision of the bylaw in respect of overhead pedways or underground pedestrian tunnels, if in the opinion of Council, the pedways or tunnels provide a public benefit.

To promote the Council priority outcome, Section 10 could be amended to allow Council the authority to waive fees associated with enlarging existing encroachments to install barrier free access to residential and commercial properties to improve accessibility if, in the opinion of Council, they provide a public benefit. The recommendation also includes a waiver for new encroachments. This is intended to allow Council the ability to consider situations where the existing access does not encroach, but where the addition of a ramp for barrier free access would cause a new encroachment. This would only apply to existing buildings. New buildings should be designed with barrier free access without encroaching on to the right of way.

Should the by-law be amended as per the recommendation, the application or review process for encroachments in the right of way would not change. When staff brings forward a recommendation to Regional Council for an encroachment in the right of way, the report would include a recommendation to waive the fees associated with the encroachment if it is for the purpose of barrier free access.

## **FINANCIAL IMPLICATIONS**

The one time application fee for an encroachment license varies depending on the size of the encroachment:

Area of Encroachment	License Fee
Up to 1.5m <sup>2</sup>	\$60.00
1.5m <sup>2</sup> to 2.5m <sup>2</sup>	\$95.00
Over 2.5m <sup>2</sup>	\$125.00

The annual rental fee for a permanent encroachment is \$1.00 per 0.1m<sup>2</sup> of the encroachment, with a minimum fee of \$10.00.

The financial implications for waiving permanent encroachment fees will depend on the number of encroachment applications received, and the size of the proposed encroachments.

The following is an example encroachment fee calculation for a ramp:

Assumed size of ramp: 1m wide x 10m long

Assumed size of landing: 1.5m wide x 1.5m long

Area of Encroachment = (1m x 10m) + (1.5m x 1.5m) = 12.25m<sup>2</sup>

One Time License Application Fee = \$125.00

Annual rental fee = 12.25m<sup>2</sup> x (\$1.00/0.1m<sup>2</sup>) = \$122.50 per year

This example assumes that the entire ramp and landing are located on the right of way.

### **RISK CONSIDERATION**

There are no significant risks associated with the recommendations in this Report. The risks considered rate Low.

### **COMMUNITY ENGAGEMENT**

The proposed amendments align with Regional Councils priority to ensure that *“Halifax is a leader in building an inclusive and accessible community where everyone can participate fully in life, including persons with disabilities and seniors.”* As this is a Regional Council priority, no community engagement took place.

### **ENVIRONMENTAL IMPLICATIONS**

Implications not identified.

### **ALTERNATIVES**

1. Community Planning and Economic Development Standing Committee could consider requesting a modification to the Encroachment by-law to only allow Council to waive fees for modification to existing encroachments which are installed to improve accessibility by creating barrier free access to residential and commercial properties.
2. Community Planning and Economic Development Standing Committee could choose not to request the modification to the Encroachment by-law which would result in no changes to the current fee structure. Council would not have the authority to waive any fees associated with encroachments for the purpose of providing barrier free access. This is alternative not recommended.

### **ATTACHMENTS**

None.

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A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

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