

**CITY OF YELLOWKNIFE
BY-LAW NO. 4552**

A BY-LAW of the Council of the Municipal Corporation of the City of Yellowknife in the Northwest Territories, authorizing the Municipal Corporation of the City of Yellowknife to amend City of Yellowknife Land Administration By-law No. 3853;

PURSUANT TO:

- a) Sections 53, 54 and 55 of the *Cities, Towns and Villages Act* S.N.W.T. 2003, c.22, as amended;
- b) Due notice to the public, provision for inspection of this by-law and due opportunity for objections thereto to be heard, considered and determined;

WHEREAS the Municipal Corporation of the City of Yellowknife has enacted Land Administration By-law No. 3853;

AND WHEREAS the Municipal Corporation of the City of Yellowknife wishes to amend Land Administration By-law No. 3853;

NOW THEREFORE, THE COUNCIL OF THE MUNICIPAL CORPORATION OF THE CITY OF YELLOWKNIFE, in regular session duly assembled, hereby enacts as follows:

APPLICATION

1. That By-law No. 3853 of the Municipal Corporation of the City of Yellowknife, is hereby amended by:

A. Amending Section 2 - Definitions by adding the following definitions in alphabetical order:

"Encroachment"	means any portion of a building, structure, or land use that is placed, erected, built, or carried out on or over City-owned property by a property owner.
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"Encroachment Agreement" means an agreement granting an adjoining property owner a license to occupy a portion of City-owned land to authorize an encroachment or to permit an existing encroachment to continue.

"Planning Administrator" means a City employee responsible for Planning & Lands, or his designate, appointed by the Senior Administrative Officer of the City of Yellowknife to administer, coordinate, and promote planning related documents, policies, and by-laws such as the general plan, development schemes, the zoning by-law, and other planning documents that have been adopted by Council plus the appropriate sections of the *Planning Act*.

"Property Owner" means any person, organization, or government body, other than the City of Yellowknife, who owns a fee simple or leasehold interest in land.

- B. Amending Section 2 - Definitions by amending the definition of 'Acquisition of Land' as follows:

"Acquisition of Land" means the purchase, lease or expropriation of land.

- C. Amending Section 2 - Definitions by amending the definition of 'Disposal of Land' as follows:

"Disposal of Land" means the sale or lease of land, but does not include the granting of an Encroachment Agreement or other license to occupy or use City-owned Lands on a temporary basis.

- D. Amending Sections 29, 30, and 31 by renumbering them as Sections 30, 31, and 32 respectively.
- E. Inserting the following as the new Section 29:

ENCROACHMENT AGREEMENTS

- 29. (a) Except as provided herein, the City may enter into Encroachment Agreements in such form and subject to such conditions as may be necessary or appropriate, without the necessity of obtaining a by-law to authorize the particular Encroachment Agreement, if the encroachment:
 - (i) relates to a sign, canopy or other architectural features for an existing or proposed development in those areas of the city where there is no setback requirement, provided that:
 - (A) the encroachment is 2.5 metres or more above the average ground level where the encroachment occurs;
 - (B) the encroachment is part of or attached to the principal building; and
 - (C) all provisions of the Zoning By-law have otherwise been met and adhered to;
 - (ii) relates to any portion of the roads closed by By-law No. 2891;
 - (iii) is caused or increased as a result of the installation of additional insulation or siding materials to an existing building;
 - (iv) relates to an existing or proposed wheelchair ramp or other feature intended to improve access for persons with disabilities to any building provided that, in the opinion of the Planning Administrator, such encroachment will not materially interfere with the use of the City's land by the City or the public; or

- (v) is an existing or proposed encroachment which is, in the opinion of the Planning Administrator, similar to the types of encroachments referred to above.
- (b) An Encroachment Agreement to be executed without Council approval must terminate:
 - (i) upon the permanent removal or destruction of the encroachment; or
 - (ii) upon such earlier date or event as may be specified in the Encroachment Agreement.
- (c) An Encroachment Agreement shall not:
 - (i) convey a fee simple interest in;
 - (ii) grant a fixed-term leasehold interest in; or
 - (iii) grant an option to purchase or right of first refusal to purchase City-owned land to a Property Owner unless that Encroachment Agreement has been authorized by by-law.
- (d) A request for an Encroachment Agreement shall:
 - (i) be made using the form specified by the Planning Administrator, as amended from time to time,
 - (ii) include such information as the Planning Administrator may deem necessary or appropriate to consider the request, including, but not limited to, a Real Property Report or site plan showing the location and extent of the existing or proposed encroachment; and
 - (iii) include the application fee, if any, set by by-law from time to time.
- (e) Upon receipt of an application for an Encroachment Agreement, the Planning Administrator shall review the request for compliance with this by-law and any other applicable by-law or legislation and shall:
 - (i) Approve the use of an Encroachment Agreement, without a by-law, if the encroachment is of a type referred to in this by-law and the creation or continuation of the encroachment is necessary or desirable; or
 - (ii) refer the request to Council if the type of encroachment or form of the encroachment agreement would require the approval of Council under this by-law, or if the Planning

Administrator otherwise deems the approval of Council to be desirable.

- (f) Encroachment Agreements shall be duly executed by the Mayor and Senior Administrative Officer upon the Property's Owner's payment of the fee for execution of the agreement, as set by by-law from time to time.

EFFECT

- 2. This by-law shall come into effect upon receiving Third Reading and otherwise meets the requirements of Section 75 of the *Cities, Towns and Villages Act*.

READ a First time this 8 day of FEBRUARY, A.D. 2010.

Mark Heyck
A/MAYOR

[Signature]
A/CITY ADMINISTRATOR

READ a Second time this 8 day of FEBRUARY, A.D. 2010.

Mark Heyck
A/MAYOR

[Signature]
A/CITY ADMINISTRATOR

READ a Third time and Finally Passed this 8 day of
FEBRUARY, A.D. 2010.

Mark Heyck
MAYOR

[Signature]
CITY ADMINISTRATOR

I hereby certify that this by-law has been made in accordance with the requirements of the *Cities, Towns and Villages Act* and the by-laws of the Municipal Corporation of the City of Yellowknife.

[Signature]
CITY ADMINISTRATOR

