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# Encroachment

Building & Development  
Department

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The Corporation of  
The City of Windsor



## **What is an Encroachment?**

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An encroachment is something that is placed, erected or built on the public right-of-way without first having received permission to do so from the the City of Windsor. The municipality may authorize the use of portions of the public highway for encroachments by granting a license agreement.

## **Application**

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Any person requesting an encroachment agreement may apply for permission to encroach on public property by completing an application form. Applications are available in the Building & Development Department, 4th floor, 350 City Hall Square West, or online by visiting the City of Windsor Web site [www.citywindsor.on.ca](http://www.citywindsor.on.ca). - search "Property Applications". Fees are also specified in each application package.

The legal fee is a requirement of the City Solicitor for the preparation of a development agreement. This fee is refundable if no agreement is required as a condition of City Council approval.

## **Types of Applications**

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The Council policy regarding encroachments is specified in Council Resolution 425/81.

**Residential Encroachment** - Residential encroachments are located on the public right-of-way abutting an area zoned R.1 or R.2 in the City of Windsor. Usually the payment of a one-time fee is applicable for residential encroachments. Residential encroachments

are usually fences, walls or other barriers, or any kind of construction that encloses and includes the untravelled part of the public right-of-way abutting residentially-zoned property.

**Commercial Encroachment** - This type includes encroachments located on the public right-of-way abutting an area not zoned RD.1 or RD.2 in the City of Windsor. This usually requires payment of annual fees and inspection fees.

**Partially Exempt Organizations** - A partially-exempt organization is deemed to be any school, union hall, charitable organization, religious non-profit charity, church or similar facility. Partially-exempt encroachments are usually on the public right-of-way abutting a partially-exempt organization's land, independent of zoning. Partially-exempt organizations and encroachments for beautification are usually granted a 50 per cent reduction in encroachment fees.

**Category 'A' Major Encroachment** - This must be approved by City Council. Major encroachments involve the structural integrity of a building and include, but are limited to, such things as footings, building walls, fire escapes, etc.

**Category 'B' Minor Encroachment** - This can be approved on the recommendation of the Chief Building Official and/or City Engineer with the approval of the Chief Administrative Officer. This encroachment is incidental in nature and does not affect the structural integrity of the building. Examples are

awnings, landscaping, flagpoles, etc. Please note that recommendations to deny applications must be referred to City Council for a decision.

**Category 'C' Encroachments** - These are those major encroachments previously approved by City Council and may be assigned to a new owner of the property on recommendation of the Chief Building Official and/or City Engineer with the approval of the Chief Administrative Officer.

## **Application Processing**

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A drawing of the dimensions and location of the encroachment in relation to the abutting property should accompany the application form. Also, a copy of the registered deed showing ownership of the abutting property is required as the agreement will be structured between the the City of Windsor and the owner of the property and/or the tenant. In addition, the applicant must provide a Certificate of Insurance to protect the City of Windsor from any claims arising from the encroachment. The certificate must be approved by the City of Windsor Purchasing and Risk Management Division.

## **Are Encroachments Always Approved?**

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Encroachments will be recommended for approval if they do not impede access to people, utilities or vehicles, and still allow the right-of-way to be used. Concerns can also be raised by surrounding residents or businesses, and these must be considered as well. Ultimately, the encroachment must work for all involved.