

THE CORPORATION OF THE TOWN OF WHITBY

BY-LAW NO. 4794-01

BEING A BY-LAW TO PERMIT PROJECTIONS BEYOND THE MAIN WALLS OF BUILDINGS
TO ENCROACH UPON A HIGHWAY

WHEREAS, Subsection 210(109) of the Municipal Act, R.S.O. 1990 c. M.45, as amended, provides that by-laws may be passed by the councils of local municipalities for permitting window air-conditioners, cornices, eaves, awning containers, awning covers, sills, brackets and other similar projections beyond the main walls of buildings to encroach upon a highway at such height above the grade thereof as established by council as the council may provide in the by-law;

AND WHEREAS, the Council of the Corporation of the Town of Whitby considers it desirable to pass such a by-law;

NOW THEREFORE, the Council of the Corporation of the Town of Whitby enacts as follows:

GENERAL

1. Window air-conditioners, cornices, eaves, awning containers, awning covers, sills, brackets, wall signs and other similar projections beyond the main walls of buildings shall be permitted to encroach upon a highway under the jurisdiction of the Town of Whitby provided,
 - (a) the projection is a minimum height of 2.4 metres above the grade of the highway;
 - (b) the projection does not encroach more than 94 centimetres upon the highway;
 - (c) if the projection is a wall sign,
 - (i) the width of the sign is not greater than 10 centimetres;
 - (ii) the surface of the sign is not greater than 1 square metre per side;and,
 - (iii) the sign is not internally illuminated; and,
 - (d) the owner of the building provides the Town of Whitby with an executed indemnity agreement in the form attached hereto and marked Schedule "A" to this by-law.

By-law No. 4794-01 (Continued)

REPEAL OF EXISTING BY-LAWS

2. By-law No. 370-76 is repealed.

EFFECTIVE DATE

3. This by-law shall come into force and take effect on the day of the final passing thereof.

BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 12TH DAY OF MARCH, A.D., 2001.

CLERK

MAYOR

SCHEDULE "A"
TO
BY-LAW NO. 4794-01

THIS AGREEMENT made in duplicate this day of

BETWEEN:

herein called the PARTY
OF THE FIRST PART,
- and -
THE CORPORATION OF THE TOWN OF WHITBY,
herein called the TOWN
OF THE SECOND PART.

WHEREAS the Party of the First Part is the owner of the lands described in Schedule "A" annexed to this agreement, being the premises known as

AND WHEREAS there is located on the present lands an existing building;

AND WHEREAS the owner desires to erect on the said building a at a height of metres (not less than 2.4 metres) above grade, which will encroach upon the highway abutting the said lands to the extent of centimetres (not more than 94 centimetres);

AND WHEREAS, the provisions of By-law No. 4794-01 of the Corporation of the Town of Whitby allows such encroachment subject to the owner executing this indemnity agreement;

NOW THEREFORE THIS INDENTURE WITNESSETH that the Party of the First Part covenants and agrees with the Town as follows:

1. To indemnify and save harmless the Town from any claims, actions, causes of actions, or otherwise, as a result of any damage to any person or persons or property by reason of the encroachment on a highway of the projection as referred to in this agreement.
2. It is further agreed that the provisions of this agreement shall run with the lands referred to in Schedule "A" and shall enure to the benefit of and be binding upon the parties hereto, their heirs, successors and assigns.

IN WITNESS WHEREOF the Party of the First Part has hereunto set his (or her) hand and seal this day of 20 .

SIGNED, SEALED & DELIVERED)
in the presence of)
)
)
)

SCHEDULE "A" TO THE AGREEMENT

Legal description of the property.