



City of Kelowna  
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# Council Policy

## Downtown Commercial Building Encroachment Policy

ESTABLISHED: November 14, 2005

Contact Department: Development Planning

### Guiding Principle

To facilitate façade renovations in Kelowna's Downtown Urban Centre.

### Purpose

The City of Kelowna will consider allowing building encroachments onto City land if the following criteria are satisfied:

1. The encroachment is related to the renovation of an existing commercial building façade and the subject property is located in the Downtown Urban Centre as defined by the Official Community Plan Map 4.2.
2. The proposed façade renovation is consistent with all applicable design guidelines for development in Urban Centres as defined in the Official Community Plan.
3. The proposed renovation meets all the restrictions of Zoning Bylaw No.12375 other than the encroachment in question.
4. The proposed encroachment must be no greater than 0.20m and must not adversely impact pedestrian flow on City sidewalks nor present a hazard for the pedestrian in the opinion of the City of Kelowna.
5. The proposed encroachment must not decrease the width of the sidewalk to less than 2.20m on any portion of the sidewalk adjacent to the subject property.
6. The owner of the subject property must enter into a License of Occupation Agreement, Easement over Road or other form of appropriate land tenure with the City of Kelowna to formally recognize the encroachment. In the license of occupation tenure agreement, the owner of the property with the encroachment shall.
  - a. Indemnify and hold the City of Kelowna harmless from any and all liabilities, actions, claims, damages, costs, losses, and expenses (including reasonable legal costs on a solicitor-client basis) suffered or incurred by the City of Kelowna as a result of the use of City Property under the License of Occupation Agreement by the subject property owner, its contractors, agents, employees, licensees and invitees or arising out of or connected with or that would not have occurred but for the works encroaching upon City of Kelowna property; and
  - b. Provide evidence that at all times during the installation of the Works and until the date at which the owner of the subject property provides written confirmation that it is no longer exercising any rights granted to it under the License of Occupation Agreement, the property owner, at its expense, shall maintain with one or more companies duly authorized to carry on business in the Province of British Columbia comprehensive general liability insurance in a form acceptable to the City Property Owner, and naming the City of Kelowna as an additional named insured with cross liability and severability of interest clauses, covering personal injury and death, property damage and damage to the City Property and the City Property Improvements. The property owner must also provide the City of Kelowna with 30 days' notice of any proposed cancellation of the insurance policy. In the event that the policy is cancelled or not renewed during the period of the License of Occupation Agreement, the City of Kelowna shall have the right to affect its own comprehensive general liability insurance coverage and the subject property owner shall bear the cost of effecting such insurance and pay the cost to the City of Kelowna upon demand.
7. The applicant must apply for a development permit to the Land Use Management Department and to a building permit to the Building Services Department of the City of Kelowna. Staff will not approve a building permit application which involves an encroachment unless all the conditions above are met to the satisfaction of the Director of Planning.

### Application

As outlined in the policy.

### Amendments

Resolution:

Replacing: