

The Corporation of the Municipality of Brockton



By-Law 2022-102

Being a By-Law to Enter into an Encroachment Agreement with
352 Durham Street East, Walkerton.

Whereas the Municipal Act S.O. 2001, c 25, Section 5(3), as amended provides that a municipal power, including a municipality's capacity rights, powers and privileges under section 9, shall be exercised by By-Law;

And Whereas the Licensee, Gillian Simpson, operates a business known as For the Love of Ice, at 352 Durham Street East, in the Town of Walkerton in the Municipality of Brockton, a building owned by 1000096685 Ontario Inc. desires to erect a sign that will project over Victoria Street;

And Whereas the Council of The Corporation of the Municipality of Brockton deems it expedient to enter into an Encroachment Agreement with Gillian Simpson (For the Love of Ice) and 1000096685 Ontario Inc.;

Now Therefore the Council of the Corporation of the Municipality of Brockton enacts as follows;

- 1.0 That the Council of The Corporation of the Municipality of Brockton hereby enter into an Encroachment Agreement attached hereto and that this Encroachment Agreement be marked as Schedule "A" to this By-Law and shall form an integral part of this By-Law;
- 2.0 That the Mayor and Clerk be and are hereby authorized on behalf of the Corporation to sign this Agreement and any other related documentation;
- 3.0 This By-Law shall come into full force and effect upon final passage.
- 4.0 This By-Law may be cited as the "352 Durham Street Encroachment Agreement By-Law".

Read, Enacted, Signed and Sealed this 21st day of June, 2022.

Mayor – Chris Peabody

Director of Legislative and Legal Services (Clerk)
– Fiona Hamilton

Schedule "A" to By-Law 2022-102

This Agreement made this 21st day of June, 2022.

Between:

The Corporation of the Municipality of Brockton
Hereinafter referred to as "The Municipality" of the First Part

And

Gillian Simpson
Hereinafter referred to as "The Licensee" of the Second Part

And

1000096685 Ontario Inc.
Hereinafter referred to as "The Owner" of the Third Part

Whereas the Owner is the registered owner of lands and premises situated at 352 Durham St East Walkerton, and legally described as PT LT 1 N/S DURHAM RD AND W/S VICTORIA ST PL 7 PT 1 3R2234 T/W R385510 S/T & T/W R160289; Municipality of Brockton, County of Bruce, and bearing parcel identifier number 33196-0140 (LT) and known municipally as 352 Durham Street East, Walkerton, Ontario, and the Licensee operates a business out of those lands and premises;

And Whereas there is erected on the said land a building which encroaches upon Victoria Street North as depicted on the plan survey attached hereto as Schedule "A" to this agreement;

And Whereas the Licensee is requesting permission from the Municipality of Brockton to maintain the said encroachment on Victoria Street North as set out in the attached plan and marked as Schedule "A" to this agreement, and the Owner of the lands and premises consents to the erection of the sign.

Now Therefore This Agreement Witnesseth that in consideration of the premises and the covenants and agreements hereinafter contained on the part of the Licensee to be observed, fulfilled and performed, the Municipality of Brockton hereby grants to the Licensee (insofar as the Municipality can legally do so) permission to encroach on Victoria Street North and to maintain the encroachment as hereinafter set out.

And in Consideration of the granting of such permission, the Licensee hereby covenants and agrees with the Municipality of Brockton as follows:

1. That nothing herein contained shall be construed as giving to the Licensee anything more than permission (insofar as the Municipality can legally do so) to maintain the encroachment in its proposed position as shown on Schedule A.
2. In the event of the Municipality at any time undertaking the widening of the said Victoria Street North and in connection therewith requiring the removal of the encroachment the Municipality shall not be liable to pay any compensation whatsoever for or in respect to the encroachment upon or over the said street and the Licensee at his own cost and expense and to the satisfaction of the Municipality shall remove the encroachment from the said Victoria Street North.
3. In the event of the Licensee becomes aware of the Owner transferring or selling the land mentioned herein or any part thereof, the Licensee shall forthwith notify in writing the Clerk of the Municipality of such transfer or sale together with the name and address of the transferee or purchaser.
4. In the event of the Licensee transferring or selling the land mentioned herein or any part thereof, this agreement shall be valid to successors provided that no changes are made to the sign structure and the successors adhere to the Municipality of Brockton's Sign By-law for replacement of the advertising area of a new sign, as amended and the provisions listed herein.

5. That all such costs, charges and expenses so paid or incurred by the Municipality as aforesaid shall form and constitute a charge or lien on the said lands until fully discharged by payment thereof.
6. The Licensee further agrees that they will make no change to the existing structure within the encroachment area.
7. The Licensee further agrees that should the portion of the building encroaching on Victoria Street North be removed or destroyed, for whatever reason or cause, the Licensee will not reconstruct on the encroachment area.
8. That for the purpose of this agreement notice may be given to the Licensee by mailing the same postpaid and addressed to the Licensee at his address last known to the said Municipal Clerk.
9. The Licensee will always indemnify and keep indemnified the Municipality against all actions, suits, claims and demands which may be brought against or made upon the Municipality and against all loss, costs, damages, charges or expenses whatsoever of the encroachment over and upon the said Victoria Street North or otherwise by reason of the exercise by the Licensee of the permission hereby granted to maintain the encroachment over and upon the said Victoria Street North and the Licensee hereby grants to the Municipality full power and authority to settle any such actions, suits, claims and demands on such terms as the Municipality may deem advisable and hereby covenant and agrees with the Municipality to pay to the Municipality on demand all moneys paid by the Municipality in pursuance of any such settlement and also such sum as shall represent the reasonable costs of the Municipality or its solicitor in defending or settling any such actions, suits, claims or demands.
10. The Licensee further agrees and understands that if the encroaching sign fails to meet the requirements of By-Law 2012-24 (The Sign By-law of the Municipality of Brockton) this agreement shall be deemed null and void.
11. That this agreement and everything herein contained shall respectively enure to the benefit of and be binding upon the said parties hereto, their heirs, executors, administrators, successors and assigns, respectively.

In Witness Whereof the Parties hereto have hereunto executed this Agreement.

The Corporation of the Municipality of Brockton

Per: _____
Mayor – Chris Peabody

Per: _____
Clerk – Fiona Hamilton

We have the authority to bind the Corporation.

Signed, Sealed and Witnessed in the Presence of:

Per: _____
Witness - _____

Per: _____
Lessee – Gillian Simpson

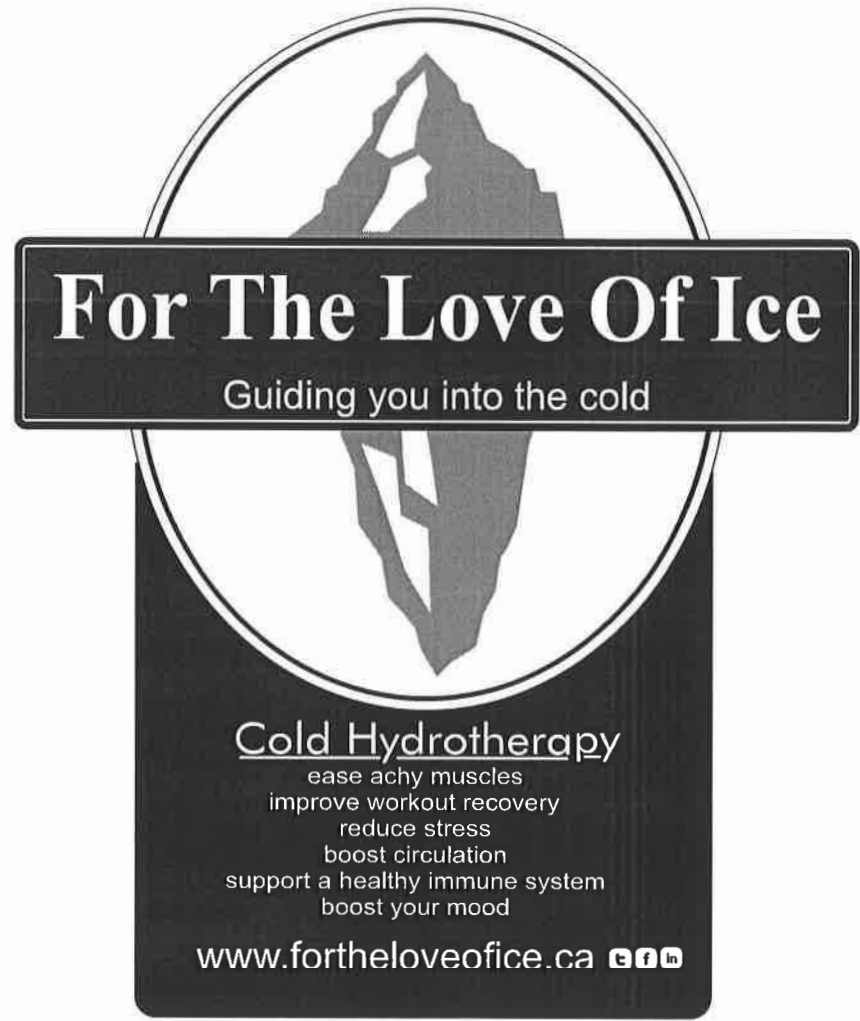
Signed, Sealed and Witnessed in the Presence of: 1000096685 Ontario Inc.

Per: _____
Phil Heuckroth

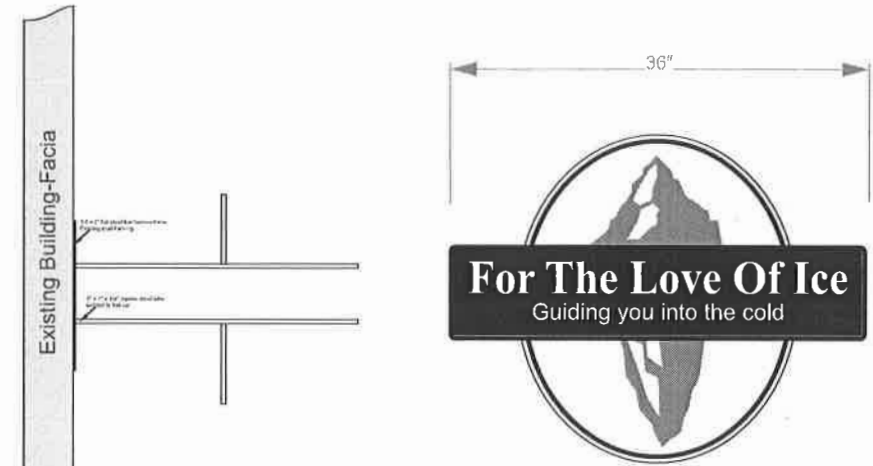
Gable/Store front sign



- Total sign area is less than 10.75 Sq Ft
- No dimension is greater than 39"
- distance between panels is not greater than 3"



Blade/Perpendicular sign



distance from grade to underside of sign 8' 6"

WALKERTON
COUNTY OF BRUCE

1978

3R-2234

DEPOSITED 1 AUGUST 1978

