THE CORPORATION OF THE CITY OF PETERBOROUGH

BY-LAW NUMBER 13-150

BEING A BY-LAW TO AUTHORIZE THE EXECUTION OF AN ENCROACHMENT AGREEMENT FOR LANDS MUNICIPALLY KNOWN AS 55 KINGSWOOD DRIVE, IN THE CITY OF PETERBOROUGH

THE CORPORATION OF THE CITY OF PETERBOROUGH BY THE COUNCIL THEREOF HEREBY ENACTS AS FOLLOWS:

That the Mayor and Clerk be hereby authorized to execute an Encroachment Agreement with respect to the encroachment of a stone retaining wall located at 55 Kingswood Drive, which said encroachment is on the lands described as Kingswood Drive, in the City of Peterborough, in the form attached hereby as Schedule “A”, and to affix the Seal of the Corporation thereto.

By-law read a first, second and third time this 21st day of October, 2013.

(Sgd.) Daryl Bennett, Mayor

(Sgd.) John Kennedy, City Clerk
ENCROACHMENT AGREEMENT made this 26th day of September, 2013.

BETWEEN:

THE CORPORATION OF THE CITY OF PETERBOROUGH
(the “City”)

and

ANN LOUISE FERRIER
(the “Licensee”)

WHEREAS the Licensee is the owner of the lands with the municipal address of 55 Kingswood Drive and more fully described in Schedule A, which lands abut the Kingswood Drive public road allowance which is owned by the City (the “Lands”);

AND WHEREAS the Licensee applied for permission to make use of a portion of the Lands, as hereinafter set forth, and City Council has authorized the Director of Utility Services and/or the City Solicitor to execute a license agreement which will permit the Licensee to establish a stone retaining wall (the “Encroachment”) as set out in Schedule “B” to remain on the Lands in accordance with the terms and conditions set out herein;

AND WHEREAS the Schedules referred to herein have been filed with the Legal Services Department of the City of Peterborough and form party of this agreement, whether attached hereto or not;

NOW THEREFORE THE PARTIES HERETO COVENANT AND AGREE AS FOLLOWS:

1. The City grants permission to the Licensee, at the sole risk and expense of the Licensee, to use and maintain the Encroachments as set out in Schedule B.

2. The Licensee shall maintain the Encroachment in a good and workmanlike fashion and shall comply in all respects with the provisions of all applicable City by-laws, policies and procedures; the Building Code Act, if applicable; and all other applicable policies and regulations.

3. Nothing in this agreement shall have the effect of permitting the Licensee to interfere, in any way, with the usefulness or safety for public purposes of the Lands or any other abutting property owned by the City or any of its utility companies or local boards.

4. In consideration of the City permitting the Encroachment to remain on the Lands, the Licensee agrees that is shall, at all times, indemnify and save harmless the City from any loss, expense, or liability howsoever incurred by the City arising from the exercise of the privileges hereinafter granted to the Licensee, and the Licensee hereby waives, as against the City, all claims of whatever nature, where such loss, expense, liability or claim result from the negligence of the City.

5. The Licensee shall obtain and maintain in force during the continuance of this agreement, insurance providing coverage for public liability and property damage, in the minimum amount of One Million Dollars ($1,000,000.00). The City shall be named as an additional insured, and the policy shall contain a cross-liability clause, to the satisfaction of the City. The Licensee agrees to forward to the City the original or certified copy of the policy of such insurance, and the annual renewals thereof. It is acknowledged and agreed by the Licensee that the provision of such insurance shall in no way relieve the Licensee of its obligations pursuant to this agreement.

6. This agreement shall not be assignable by the Licensee without the written consent of the City, which may be conditioned, withheld, delayed or denied.

7. The Licensee acknowledges and agrees that, should the City require the use, for public purposes, of the lands upon which the Encroachments are located, the Licensee shall, upon ninety (90) days written notice from the City, remove the
Encroachments and restore the lands to a condition satisfactory to the City, at the sole expense of the Licensee. Should the Licensee default in so doing, the City may perform the work of removal and restoration at the risk and expense of the Licensee and add the cost of such work to the Licensee’s Municipal taxes for 55 Kingswood Drive.

IN WITNESS WHEREOF the parties hereto have hereunto set their respective hands and seals.

SIGNED, SEALED AND DELIVERED in the presence of:

THE CORPORATION OF THE CITY OF PETERBOROUGH

Daryl Bennett, Mayor

John Kennedy, Clerk

Witness

ANN LOUISE FERRIER
SCHEDULE A

Legal Description

LOT 147, PLAN 89Q (NORTH MONAGHAN); PETERBOROUGH
SCHEDULE B

(Diagram/drawing/survey showing location of Encroachments filed with Legal Services)