

Authority: Item 2, Planning and Economic
Development Committee
Report: 05-024(PED05165)
CM: November 17,2005

Bill No. 336

CITY OF HAMILTON

BY-LAW NO. 05-336

To Adopt a Bylaw to Allow for the Entry of Adjoining Property for Maintenance Purposes

WHEREAS, Section 132 of the Ontario Municipal Act provides for the enacting of by-laws to allow for the entering of an adjoining property for maintenance purposes;

AND WHEREAS, the Council of the City of Hamilton enacted Zoning By-law No.05-200 on the 25th day of May, 2005 for an area of the City of Hamilton specified therein and known as the Downtown;

AND WHEREAS , said Zoning By-law No. 05-200 provides for reduced yards or no yards in order to achieve built form objectives appropriate for Downtown locations;

AND WHEREAS, it is desirable to allow for access over adjoining lands where said access is needed to repair, maintain or alter buildings, fences or structures of the owner of property.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Within the area depicted on Schedule "A" attached hereto and forming part of this by-law, an owner or occupant of land is hereby authorized to enter adjoining lands for the making of repairs or alterations to a building, fence or other structure on the land of the said owner or occupant, provided said access is only to the extent necessary to carry out the repairs or alterations.

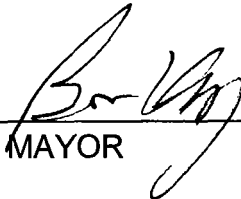
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2. The authority to enter adjoining land provided for in paragraph 1 of this by-law is subject to strict compliance with the following terms and conditions:
 - (a) The power of entry conferred herein shall only be exercised by the owner or occupant of adjoining land or the duly authorized agent thereof;
 - (b) A person exercising the power of entry must display proper identification;
 - (c) The person proposing to exercise the power of entry pursuant to paragraph 1 above shall provide reasonable prior written notice of the proposed entry to the occupier of the adjoining lands, which notice shall include a description of the proposed work to be performed and a proposed date of entry and duration of occupancy, which duration shall not exceed that period of time reasonably required to diligently and expeditiously complete the works described in the said notice;
 - (d) The right of entry conferred herein shall only apply to the implementation of the works described in the above written notice;
 - (e) The owner or occupant must restore the property in so far as is practical to its original condition and shall provide compensation for any damages caused by the entry; and
 - (e) Access to the building, fence or structure requiring repair or alteration is not otherwise feasible from the lands of the owner or occupant thereof or from a public street.
3. Nothing in this by-law authorizes entry into a building.

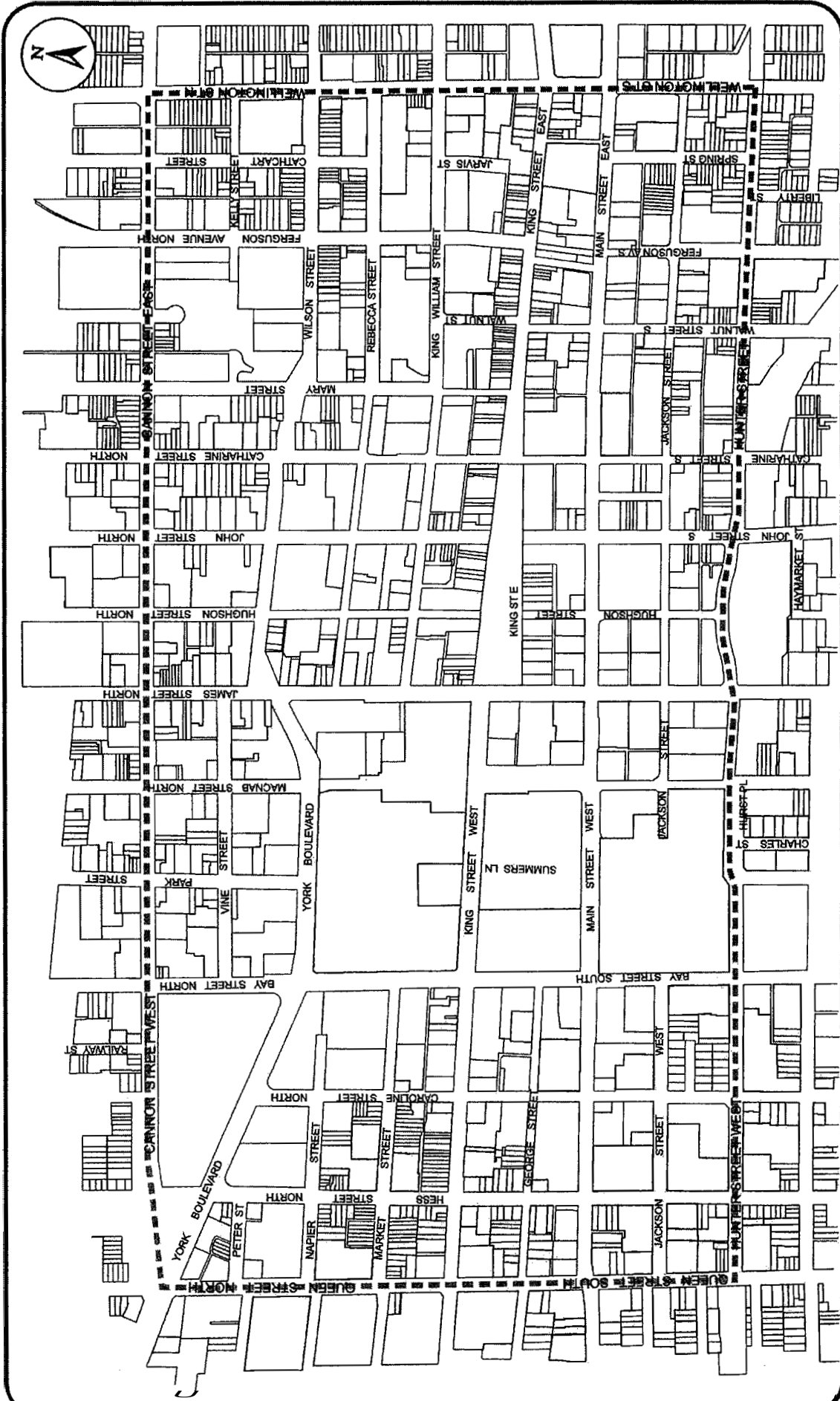
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4. Nothing in this by-law in any way relieves the person purporting to exercise the right of entry conferred herein in accordance with the above terms and conditions from any liability for any damage or injury to any person or property caused by, or arising in any way out of, the exercise of the said right of entry or any activity in relation thereto or from the requirement to obtain any permit or approval or comply with any applicable law, by-law or regulation with respect to the proposed works.

PASSED and ENACTED this 17th day of November, 2005.


MAYOR


CLERK



Schedule A to By-law No. 05-336 Property Maintenance Access By-law

Legend
 Boundary