

THE CORPORATION OF THE TOWN OF GRIMSBY

BY-LAW NO. 23-XX

A BY-LAW TO REGULATE AND PERMIT ACCESS ONTO ADJOINING LANDS
FOR MAINTENANCE IN THE TOWN OF GRIMSBY

WHEREAS Section 132 of the Municipal Act, 2001, S.O., c.25, as amended, provides that a municipality may pass a by-law to authorize the owner or occupant of land to enter adjoining land, at any reasonable time, for the purpose of making repairs or alterations to any building, fence, or structures situated on the land of the owner or occupant.

NOW THEREFORE the Council of the Corporation of the Town of Grimsby hereby enacts as follows

1.0 DEFINITIONS

“Adjoining Lands” means the lands directly adjacent to the Owner’s Lands which the Owner would like access to or has accessed for the purpose of conducting Maintenance on the Owner’s Lands;

“Adjoining Lands Owner” means the registered owner of the Adjoining Lands according to the City’s property tax assessment rolls;

“Buildings” means any and all buildings and structures and fixed improvements;

“Consent” means the recent verbal or written permission to access Adjoining Lands for the purpose of repairs to Owner’s Lands.

“Maintenance” shall include:

- a) maintenance and upkeep; the making of additions or alterations or the taking of any other action that may be required to ensure that a building, fence or other structure conforms with the standards established in a City bylaw; and
- b) a structural change to the exterior or interior of an existing building, fence or other structure, but does not include a total replacement of an existing building or other structure.

“Officer” means a Police Officer, Peace Officer, or a Municipal Law Enforcement Officer.

“Owner” includes a lawful owner or occupant of land, including his or her authorized agents or employees, that is requesting access to the Adjoining Lands or has accessed the Adjoining Lands to perform Maintenance;

“Owner’s Lands” the lands owned or occupied by the Owner directly adjacent to the Adjoining Lands;

“Permitted Access Time” means the hours of 9 a.m. to 5 p.m., Monday through Saturday, Public Holidays excluded, as prescribed in the *Holidays Act*.

“Town” means the Corporation of the Town of Grimsby.

2.0 RIGHTS OF ENTRY

2.1 An Owner may enter Adjoining Lands, at any point during the Permitted Access Time as permitted in accordance with the restrictions contained in this By-Law, for conducting Maintenance on the Owner’s Lands but only to the extent necessary to carry out the repairs or alterations:

- a) If the Adjoining Lands Owner has given prior consent for this entry;
or
- b) In accordance with the requirements and conditions of this By-Law.

3.0 NOTICE REQUIREMENTS

3.1 Any Owner wishing to access Adjoining Lands pursuant to this By-Law shall provide the Town with the following:

- a) his or her intention to enter the Adjoining Lands to conduct Maintenance and when entry will be effected;
- b) a description of the work proposed to be conducted on the Adjoining Lands;
- c) the length of time that it will be necessary to enter upon the Adjoining Lands and the hours during which entry will be effected, which time period shall conform with the requirements in Section 4.11 and 4.12;
- d) the Owner complete a signed statement provide by the Town that he or she covenants and agrees to comply with the requirements contained in this By-Law.

3.2 Once all parts of Section 3.1 have been completed to the satisfaction of the Town, the Town will provide notice to the Adjoining Lands Owner

in writing and shall be given by either personal delivery to a person ordinarily residing at the Adjoining Lands or sending the notice by registered mail.

3.3 Any notice, if personally delivered by the Town, shall be deemed to have been validly and effectively given and received on the date of such delivery and if sent by registered mail, shall be deemed to have been validly and effectively given and received five days after it was sent. The 48 hour notice period shall commence on the date the notice was deemed to have been validly and effectively given and received pursuant this Section.

4.0 REQUIREMENTS DURING ACCESS

4.1 Any Owner accessing onto Adjoining Lands pursuant to this By-Law must display or, upon request, produce proper identification during his or her access onto the Adjoining Lands.

4.3 Any Owner entering onto Adjoining Lands pursuant to this By-Law shall comply with the provisions of all applicable laws, rules and regulations, including without limitation, any applicable federal and provincial legislative enactments, and municipal by-laws with respect to its use of the Adjoining Owner's Lands.

4.4 Failure of an Owner to comply with the requirements set out in Section 4.0 will result in the immediate revocation of its authorization to enter onto the Adjoining Lands and is a contravention of this By-Law.

4.5 The Owner or his or her contractors, employees or agents entering onto Adjoining Lands, shall not create any hazards or allow any hazards to exist on the Adjoining Lands.

4.6 Nothing in this By-Law authorizes entry into any Buildings situated on the Adjoining Lands.

4.7 Nothing in this By-Law authorizes entering onto the Adjoining Lands with any vehicles, unless specifically named in the notice.

4.8 Nothing in this By-Law authorizes the use of the Adjoining Lands for any other work or activity other than as described in the notice.

4.9 Nothing in this By-Law authorizes the storage of materials or equipment on the Adjoining Lands.

4.10 Nothing in this By-Law exempts any person from complying with other Town By-Laws.

4.11 Nothing in this By-Law authorizes any person to enter onto Adjoining Lands outside of the Permitted Access Time.

4.12 Nothing in this By-Law authorizes any person to enter onto Adjoining Lands for a total period of more than ten (10) days in each calendar year.

4.13 Nothing in this By-Law authorizes entry onto Adjoining Lands by any person under the age of eighteen (18) years.

5.0 RESTORATION OF ADJOINING LAND

5.1 Any Owner who has accessed Adjoining Lands pursuant to this By-Law shall, in so far as is practicable, restore the adjoining land to its original condition at the Owner's sole cost and expense, which shall include repairing any damage to the Adjoining Lands directly or indirectly caused by or directly attributable to the entry by the Owner onto the Adjoining Lands pursuant to this By-Law and shall provide compensation for any damages directly or indirectly caused by or directly attributable to the Owner's entry or by anything done by the Owner on the Adjoining Lands.

6.0 RESPONSIBILITY FOR CLAIMS

6.1 The Owner shall assume sole risk and responsibility for personal injury or death of any person and damage to any property arising out of or in any way connected with, or that would not have occurred but for the Owner's entry onto the Adjoining Lands and the Owner shall hold the Adjoining Lands Owner harmless for any such claims and damages.

6.2 The Adjoining Lands Owner shall have no liability of any nature with respect to the Owner's entry onto the Adjoining Lands, except with respect to claims arising out of or in any way connected, directly or indirectly, to the gross negligence or wilful misconduct of the Adjoining Lands Owner or those whom the Adjoining Lands Owner is responsible for at law.

7.0 OFFENCES AND ORDERS

7.1 An Officer may enter upon land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

- a) this By-law;
- b) a direction or order made under this By-law.

7.2 An Officer carrying out an inspection under Section 7.1 may:

- a) require the production for inspection of documents or things relevant to the inspection;
- b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- c) require information from any person concerning a matter related to the inspection.

7.3 If an Officer is satisfied that a contravention of this By-law has occurred, the Officer may make an order requiring the person who contravened the By-law, or who caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred to:

- a) discontinue the contravening activity; and/or
- b) do work to correct or prevent the contravention.

7.4 An order made under Section 7.3 shall set out:

- a) reasonable particulars of the contravention adequate to identify the contravention and the location of the Land on which the contravention occurred;
- b) the date by which there must be compliance with the order.

7.5 An order issued under Section 7.3 shall be served personally, placarding in a conspicuous manner, or by registered mail to the last known address on the person whom the Officer believes is contravening this By-law.

7.6 No person shall hinder or obstruct an Officer appointed to enforce this By-law, nor shall any person obstruct any employee or agent authorized to carry out work for the Town, specified in an order issued hereunder.

7.7 Every person who contravenes any provision of this By-law, is guilty of an offence and upon conviction is liable to the penalties prescribed under the Provincial Offences Act, R.S.O. 1990, c.P.33, as amended.

7.9 Every person who is guilty of an offence under this By-law shall be subject to the following penalties:

- a) Upon first conviction, to a fine of not more than \$100,000.00. However, a special fine may exceed \$100,000.00;
- b) Upon continuing offence, for each day or part of a day that the offence continues, a maximum fine shall not exceed \$10,000. However, despite section 8.10 a), the total of all of the daily fines for the offence is not limited to \$100,000; and
- c) Upon multiple offences, for each offence included in the multiple offence, a maximum fine shall not exceed \$10,000. However, despite section 8.10 a), the total of all fines for each included offence is not limited to \$100,000.

8.0 ENACTMENT AND SHORT TITLE

8.1 This By-law comes into force on the day it is passed.

8.2 This By-law may be known as the “Access to Adjoining Property By-law”.

9.0 VALIDITY

9.1 If a court of competent jurisdiction should declare any section or part of a section of this By-law to be invalid, the same shall not affect the validity of the By-law as a whole or any part thereof, other than the part which was declared to be invalid.

Read a first time, considered, and passed this 6th day of November, 2023.

J.A. Jordan, Mayor

B. Nistico-Dunk, Acting Town Clerk