

REPORT

Council

Meeting Date: June 23, 2025

FROM: Municipal Enforcement Services Department

DATE: June 10, 2025

SUBJECT: Access to Adjoining Property By-law 2025-111 and By-law 2025-110

LOCATION: Town-wide

WARD: Town-wide

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RECOMMENDATION:

1. That By-law 2025-110, a by-law to authorize entry on adjoining property for the purpose of making repairs or alterations, attached as Appendix A to the report from Municipal Enforcement Services dated June 10, 2025, be passed, and that By-law 1970-101 be repealed.
1. That By-law 2025-111, a by-law to amend Administrative Penalties for Non-Parking Violations and Orders By-law 2021-038, as amended, attached as Appendix B to the report from Municipal Enforcement Services dated June 10, 2025, be passed.

KEY FACTS:

- By-law 1970-101 was passed by Council on July 20, 1970 and provides for the entering onto adjoining land for the purpose of making repairs, alterations or improvements. By-law 1970-101 requires updating and replacement to be in keeping with the current Municipal Act, 2001 (the Municipal Act) and to ensure it sets out the conditions for the power of entry onto adjoining lands.
- Section 132 of the Municipal Act provides, subject to certain conditions, that a municipality may 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 other structures on the land of the owner or occupant but only to the extent necessary to carry out the repairs or alterations.
- By-law 2025-110 attached as Appendix A to this report includes all the Section 132 conditions and repeals By-law 1970-101.

BACKGROUND:

By-law 1970-101 provides for the entering onto adjoining land for the purpose of making repairs, alterations and improvements, but does not include all the conditions under which the power of entry must be exercised as set out in Section 132 of the Municipal Act. As such, staff recommend that Council repeal By-law 1970-101 and replace it with By-law 2025-110, attached as Appendix A to this report.

COMMENT/OPTIONS:

Section 132 of the Municipal Act permits a municipality to pass a similar by-law to By-law 1970-101 to authorize the owner or occupant of land to enter onto adjoining land for the purpose of making repairs or alterations to any building, fence or other structure on the land of the owner or occupant. However, Section 132 clarifies who can exercise the right of access and contains a list of conditions that must be adhered to if that power of entry is going to be exercised. The conditions are:

1. The power of entry may be exercised not just by the owner or occupant but also by an employee or agent of the owner or occupant;
2. A person exercising the power of entry must display or, on request, produce proper identification;
3. Nothing in the by-law is to authorize entry into a building on the adjoining owner's land;
4. Before accessing the neighbour's adjoining land, the owner or occupant shall provide reasonable notice of the proposed entry to the occupier of the adjoining land; and
5. The owner or occupant accessing the neighbour's adjoining land shall, in so far as is practicable, restore the adjoining land to its original condition and shall provide compensation for any damages caused by the entry or by anything done on the adjoining land.

Proposed By-law 2025-110:

1. Clarifies who can exercise the right of entry onto adjoining land and authorizes any such entry onto adjoining lands in accordance with the above-noted conditions;
2. Provides that the notice required by condition 4 above must be in writing unless there is an emergency and the notice must include a description of the proposed repairs or alterations to be performed, along with the start date and duration of the work;
3. Provides that the power of entry does not permit the use of the adjoining land for construction staging, equipment storage or the parking of motor vehicles and construction machinery; and

4. Contains penalty and offense provisions and provides for the issuance of penalty notices for non-compliance with the By-law.

In addition, proposed By-law 2025-110 makes it clear that there is an obligation for the person(s) accessing the neighbour's adjoining land to restore the adjoining land to its original condition and provide compensation for any damage. The By-law does not prevent the adjoining owner or occupant from taking their own civil action for damages or otherwise related to the entry onto the adjoining land.

If By-law 2025-110 is approved, Administrative Penalties for Non-Parking Violations and Orders By-law 2021-038 will require an amendment to add the by-law to the list of designated by-laws.

CONSIDERATIONS:

(A) PUBLIC
N/A

(B) FINANCIAL
There is no financial impact as a result of this report.

(C) IMPACT ON OTHER DEPARTMENTS & USERS
Municipal Enforcement Services and Legal have been involved in the review process for this report.

(D) COUNCIL STRATEGIC PRIORITIES
This report supports the strategic priority of Accountable Government.

(E) CLIMATE CHANGE/ACTION
N/A

APPENDICES:

Appendix A – By-law 2025-110 a by-law to authorize entry on adjoining property for the purpose of making repairs or alterations and to repeal By-law 1970-101.

Appendix B – By-law 2025-111 a by-law to amend Administrative Penalties for Non-Parking Violations and Orders By-law 2021-038

Prepared by:
Margaret Boswell, Manager,
Municipal Enforcement Services

Submitted by:
Selena Campbell, Director,
Municipal Enforcement Services