

THE CORPORATION OF THE
TOWN OF PELHAM
BY-LAW NO. 4254(2020)

Being a By-law to permit owners or occupants of any buildings, fences or other structures, or their agents or employees to enter upon any adjoining land for the purpose of making repairs, alterations or improvements to such buildings, fences or other structures and to Repeal and Replace By-law No. 1155(1987).

WHEREAS section 132 of the *Municipal Act, 2001* provides that a Municipality may enact a Bylaw for the purpose of authorizing an Owner of Property to enter adjoining land, during reasonable times, for the purpose of making repairs or alterations to any building or fence or other structure on the land of the Owner, but only to the extent necessary to carry out said repairs or alterations;

AND WHEREAS the Council of the Town of Pelham finds it desirable to create a system whereby Owners of Property can make private arrangements amongst themselves to access property and conduct repair, renovation and alteration works;

NOW THEREFORE The Council of the Corporation of the Town of Pelham enacts as follows:

1. Short Title

- 1.1 the short title of this By-law is the “Private Entry Upon Adjoining Lands By-law”

2. Definitions

- a) “Maintenance” includes regular maintenance, repairs, or alterations
- b) “Notice” means a written document physically provided to an adjoining Owner of Property which sets out the date, time and manner of intended entry onto lands, and includes an estimate of the duration of the entry, and details of the site remediation, which is the sole responsibility of the Owner seeking entry, should remediation be necessary in the circumstances. Notice is sufficiently given at the address of the adjacent lands by hand delivery to a person ordinarily resident there with a signature of receipt or by registered mail to the owner of the lands as recorded in the Town’s assessment rolls, allowing five (5) business days for mail delivery.
- c) “Owner” means a lawful owner or occupant of property, and includes his or her authorized agents or employees.
- d) “Property” includes land, buildings, structures and fences

3. Entry – Adjoining Lands

3.1 Repair - alteration - improvement - entry - permitted

- (a) Subject to section 3.2(a) of this by-law, an owner or occupant of any building, fence or other structure in the Town of Pelham or the agent or employee of such owner or occupant is hereby permitted to enter upon any

adjoining land for²-the purpose of making repairs, alterations or improvements to such building, fence or other structure but only to the extent necessary to effect such repairs, alterations or improvements.

3.2 Notice – 5 calendar days required - except with consent

- (a) Except with the consent of the occupier of the adjoining land, no person shall enter upon such adjoining property pursuant to section 3.1(a) of this by-law without at least 5 calendar days before such entry, notifying the occupier of such adjoining property, where such notification is capable of being given having regard to all the circumstances.

3.3 Conditions of Entry

- (a) The power of entry may be exercised by an employee or agent of the Owner or occupant of Property.
- (b) A person exercising the power of entry must display or, on request, produce proper identification.
- (c) The power of entry onto Property does not authorize entry into a building. Entry into buildings on adjacent property is beyond the scope of intent of this Bylaw.
- (d) The owner or occupant shall provide reasonable notice of the proposed entry to the occupier of the adjoin land.
- (e) The owner or occupant of the 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 adjoin land.

3.4 Property – condition of – upon leaving

- (a) Every Owner who exercises his or her rights pursuant to Section 3.1(a) of this By-law has a legal obligation to leave the entered land in the condition that it was in at the time of entry, or in a condition agreed upon by both parties.

3.5 Civil Actions

3.51 Rights – not affected

- (a) Nothing in this by-law affects a right to bring a civil action for damages or otherwise arising out of the entry upon any adjoin property.

4.0 Repeal - Enactment

- 4.1 By-law 1155 (1987) is hereby repealed.
- 4.2 This By-law comes into force on day of passing.
- 4.3 By-law passed this 13th day of July, 2020

Mayor, Marvin Junkin

Town Clerk, Nancy J. Bozzato