



## The Corporation of the Town of Tecumseh

Legislative & Clerk Services

**To:** Mayor and Members of Council

**From:** Robert Auger, Director Legislative Services & Clerk

**Date to Council:** August 8, 2023

**Report Number:** LCS-2023-26

**Subject:** Right of Access for Maintenance

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### Recommendations

It is recommended:

**That** Report LCS-2023-26 entitled “Right of Access for Maintenance” **be received**;

**And that** By-Law 2023-086 being a by-law to permit access onto adjoining lands for maintenance, **be considered** by Council for first, second and third readings and be finally approved on August 8, 2023.

### Background

The Building Department recently contacted the Municipal Clerk to inquire whether the Town had a by-law to permit a resident to access the property of their adjoining neighbour in order to be able to attend to the repair or maintenance of their own property.

The inquiry originally came from a resident who indicated that due to the close proximity of the properties he needed temporary access to his neighbour’s property in order to effect repairs on his own property. However, in this case the adjoining neighbour had refused his request to enter upon the lands, leaving the resident without a reasonable alternative way to secure access to effect the repairs.

Several municipalities do, in fact, have a by-law with respect to granting a right to access or have incorporated terms with respect to same into other by-laws regarding property maintenance or construction.

The Town does not currently have such a by-law in place and Administration recommends that Council give consideration to such a by-law.

## Comments

Section 132 of the *Municipal Act*, 2001, S.O., c.25, as amended, provides that a municipality may pass a by-law to authorize an owner or occupant of land to enter adjoining lands for the purpose of maintenance, making repairs or alterations to any building, fence and/or other structure on the land of the owner or occupant but only to the extent necessary to carry out such maintenance, repairs or alterations.

Accordingly, By-Law 2023-086 has been prepared on the agenda. It establishes the rules for obtaining access to a neighbouring property and the conditions upon which that entry is to be conducted, the main points of which are as follows:

1. The resident can only access the adjoining neighbour's property if prior consent has been obtained from the adjoining owner or if the requesting owner otherwise complies with the by-law and only if the repairs cannot be made from the owner's own lands or from a street adjoining the owner's lands.
2. The resident looking to gain access to a neighbour's property is required to file a Notice with the Town, which notice will be at least 5 days prior to when access is needed, and which will include details of the work to be completed and the expected time frame for completion.
3. The Notice is also to be delivered to the owner of the property for which access is being sought at least 5 days prior to when access is needed.
4. The Notice will include an Acknowledgment, signed by the resident seeking access that:
  1. the neighbour's lands will be left in the same condition as prior to entry;
  2. entry will be limited to the days and time periods specified in the notice;
  3. entry will only be exercised by the resident or his or her employees or agents;
  4. the resident will display or produce upon request, proper identification;

5. the resident will save the neighbour harmless from claims for injury or damage to the resident or his or her employees or agents and their equipment as the case may be; and
6. there will be Confirmation of Insurance attached to the Notice confirming coverage throughout the term of the entry onto the Adjoining Lands and naming the Adjoining Landowner as an additional insured.

The right of entry does not extend to entry into a building and further such entry shall only be for purposes and during the durations stated. The Town would have the discretion under this by-law to make inspections and/or orders as appropriate for any contraventions of this by-law.

## Consultations

Development Services

## Financial Implications

There are no immediate financial implications anticipated with this Report.

## Link to Strategic Priorities

Applicable	2023-2026 Strategic Priorities
<input type="checkbox"/>	Sustainable Growth: Achieve prosperity and a livable community through sustainable growth.
<input type="checkbox"/>	Community Health and Inclusion: Integrate community health and inclusion into our places and spaces and everything we do.
x	Service Experience: Enhance the experience of Team Tecumseh and our citizens through responsive and respectful service.

## Communications

Not applicable

Website

Social Media

News Release

Local Newspaper

This report has been reviewed by Senior Administration as indicated below and recommended for submission by the Chief Administrative Officer.

Prepared by:

Robert Auger, LL.B.  
Director Legislative Services & Clerk

Reviewed by:

Peter Valore  
Manager Building Services & Chief Building Official (CBO)

Recommended by:

Margaret Misek-Evans, MCIP, RPP  
Chief Administrative Officer

<b>Attachment Number</b>	<b>Attachment Name</b>
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