

Appendix 1: Municipal Benchmarking – Right of Entry By-laws

Municipality	Document Details (By-Laws)	Key Takeaways & Findings
<p>City of Toronto</p>	<p>By-Law No. 1184-363-8 - Right of Entry</p> <p>Passed: 2008 Amended: 2023</p> <p>Standard Definitions</p> <ul style="list-style-type: none"> • Building; • City Property; • Executive Director; • Occupant; • Officer; • Owner; and • Property. <p>By-Law Parameters</p> <ul style="list-style-type: none"> • Not permit based; and • Owner or occupant (or agent thereof) is permitted access. <p>By-Law Compliance & Conditions</p> <ol style="list-style-type: none"> 1) A person exercising the power of entry shall display or, on request, produce proper identification; 2) (a) The owner or occupant of the property shall provide reasonable written notice of the proposed entry to the occupant of the adjoining property at least 24 hours before any person enters the adjoining property; (b) The notice shall include: <ol style="list-style-type: none"> [1] A description of the repairs or alterations and how the repairs will be made; [2] The date of entry and duration of occupation; and [3] A telephone number that can be used to contact owner or occupant of the property; 	<ol style="list-style-type: none"> 1. This by-law does not create additional administrative responsibilities for the municipality; 2. This by-law provides clear compliance requirements and conditions when entering an adjoining property; 3. This by-law clearly outlines the scope of work permitted when entering adjoining properties; 4. This by-law clearly outlines that there are exemptions to this right of entry – ie City property; 5. This by-law does not include a section regarding interpretation of the by-law – ie Severability & singular vs plural; 6. This by-law does not include specifications on when the land can be accessed throughout the day;

(c) The notice shall be served personally on the person to whom it is directed or by registered mail to the last known address of that person, in which case it shall be deemed to have been given on the third day after it is mailed;

- 3) Despite § 363-8.2C(2), in the case of an emergency, a notice that includes the content prescribed under § 363-8.2C(2)(b) may be given less than 24 hours before any person enters the adjoining property or as soon as practicable after any person enters the adjoining property in any manner likely to come to the attention of the occupant of the adjoining property;
- 4) The duration of the entry shall not exceed the period of time reasonably required to complete the repairs or alterations described in the notice;
- 5) The owner or occupant of the property shall ensure that the person exercising the power of entry does not create any hazards or allow any hazards to exist on the adjoining property;
- 6) The owner or occupant of the property shall, in so far as is practicable, restore the adjoining land to its original condition, including removing any equipment or materials on the adjoining property as a result of the entry; and
- 7) The owner or occupant of the property shall provide compensation for any damages caused by the entry or by anything done on the adjoining land.

Municipal Responsibilities

- N/A as no permit is required.

Does not Authorize

- Entry onto City property;
- Entry into a building on the adjoining property;
- Entry for a purpose other than conducting the repairs or alterations described in the notice;
- The storage of materials or equipment, or the parking of vehicles, on the adjoining property; and

	<ul style="list-style-type: none"> An exemption to any person from complying with other applicable federal or provincial legislation or City by-laws. <p>Notes:</p>	
<p>City of Ottawa</p>	<p>By-Law No. 205-326 - Right of Entry</p> <p>Passed: 2005 Amended: 2009</p> <p>Standard Definitions</p> <ul style="list-style-type: none"> Building; City; Council; Director; Land; and Permit. <p>By-Law Parameters</p> <ul style="list-style-type: none"> Permit based; Completed application form and descriptions of work, land details, contact information, permit fee and deposits, owner authorization; A By-Law officer will be assigned to inspect the property; and Deposit to generally equal the amount required to fully restore property if not done so by the owner seeking entry. <p>By-Law Compliance and Conditions</p> <ol style="list-style-type: none"> The repairs or alterations to a building, fence or other structure are made only to the extent necessary to effect such repairs or alterations; The adjoining land is left in the same condition as it was prior to such entry; The entry is only for the days and hours of work specified in the permit; The power of entry is only exercised by the owner or his or her employees or agents; 	<ol style="list-style-type: none"> This by-law does create an additional administrative exercise by way of a “right-of-entry permit” application; The department facilitating this is the Emergency and Protective Services Department (By-law and Regulatory Services); Appropriate fees and deposits are required in order to facilitate the application; The deposit is retained until such time as the land is restored – if not restored the City will issue notices and provide the deposit to the affected land owner; The permit does specify a particular amount of time when and how long the property can be accessed; Inspections by the City are required to facilitate issuance of the permit; This by-law does include a section regarding interpretation of the by-law – ie Severability & singular vs plural;

	<p>5) The person exercising the power of entry displays or produces proper identification on request; and</p> <p>6) The owner provides reasonable notice of the proposed entry to the owner or authorized agent of the owner of the adjoining land.</p> <p>Municipal Responsibilities</p> <ul style="list-style-type: none"> • Inspections required to determine that the work being requested and the land(s) being requested to enter is necessary for the purposes of making repairs or alterations; and • Administrative and enforcement responsibilities. <p>Does not Authorize</p> <ul style="list-style-type: none"> • Entry into a building on the adjoining property; <p>Notes:</p> <p>Offences and Penalties</p> <ul style="list-style-type: none"> • Contravention of provisions of this by-law will be guilty of an offence and if convicted is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, Chapter. P.33, as amended; and • Further involvement of the Ontario Court of Justice or any court of competent jurisdiction, may, in addition to any penalty imposed on the person convicted, issue an Order prohibiting the continuation or repetition of the offence by the person convicted 	
<p>City of Oshawa</p>	<p>By-Law No. 46-96 - Right of Entry</p> <p>Passed: 2018</p> <p>Standard Definitions</p> <ul style="list-style-type: none"> • Property; • Owner; and • Maintenance. <p>By-law Parameters</p>	<ol style="list-style-type: none"> 1. This by-law does not create additional administrative responsibilities for the municipality; 2. This by-law specifies how far in advance a notice is to be given as well as provides stipulations on what qualifies as notice (written or mail – allowing for 5 days for delivery of mail); 3. This by-law does not specify an appropriate time or length of work that

	<ul style="list-style-type: none"> • Not permit based; and • Owner or occupant (or agent thereof) is permitted access. <p>By-law Compliance & Conditions</p> <ol style="list-style-type: none"> 1) Written notice, with a minimum of seventy-two (72) hours, with his or her intent to enter the adjoining property; 2) Notice to specify the time frame of entry and be hand delivered with and must be signed as being received; and 3) Legal obligation to leave the entered land in the condition that it was in at the time of entry. <p>Municipal Responsibilities</p> <ul style="list-style-type: none"> • N/A as no permit is required <p>Does not Authorize</p> <ul style="list-style-type: none"> • The infringement of rights to bring a civil action for damages (or otherwise) arising out of the entry by an owner on adjacent land <p>Notes:</p> <ul style="list-style-type: none"> • 	<p>is appropriate to conduct the maintenance/alterations;</p> <ol style="list-style-type: none"> 4. This by-law states very clearly that Civil Rights are preserved should the owner(s) choose to take legal action as a result of the entry; 5. This by-law does not include a section regarding interpretation of the by-law – ie Severability & singular vs plural;
<p>City of Hamilton</p>	<p>By-Law No. 05-336 - To Adopt a Bylaw to Allow for the Entry of Adjoining Property for Maintenance Purposes</p> <p>Passed: 2005</p> <p>No Standard Definitions</p> <p>By-Law Parameters</p> <ul style="list-style-type: none"> • Not permit based; • Owner or occupant (or agent thereof) is permitted access; and • By-law restricted to a specific geographic area based on associated Schedule A (generally downtown Hamilton). <p>By-law Compliance & Conditions</p>	<ol style="list-style-type: none"> 1. This by-law does not create additional administrative responsibilities for the municipality; 2. This by-law identifies a specific geographic area in which the “right-of-entry” is permitted within the City of Hamilton; 3. This by-law does not include specifications on the time frame in which notice should be provided – relies on “reasonable” notice; 4. This by-law does not include a section regarding interpretation of the by-law – ie Severability & singular vs plural;

	<ol style="list-style-type: none"> 1) Proper identification must be presented by those conducting the maintenance; 2) Prior written notice and proposed work and duration of time of entry is required to be given to adjoining properties; 3) Restoration of property; and 4) Only permitted when work is not otherwise feasible to be conducted from owner lands or the public right of way. <p>Does not Authorize:</p> <ul style="list-style-type: none"> • Entry to the adjoining buildings. <p>Municipal Responsibilities</p> <ul style="list-style-type: none"> • N/A as no permit is required <p>Notes:</p> <ul style="list-style-type: none"> • Clause that notes no relief from liability claims, requirement for permits or compliance with any applicable law, by-law, or regulation 	<ol style="list-style-type: none"> 5. This by-law does not include specifications on when the land can be accessed throughout the day;
<p>City of Windsor</p>	<p><u>By-Law No. 5711 - A By-Law To Authorize Entry Upon Adjoining Land For The Purpose Of Making Repairs, Alterations Or Improvements</u></p> <p>Passed: 1977 Amended: 1992</p> <p>Standard Definitions</p> <ul style="list-style-type: none"> • Applicant; • Building Commissioner; • Corporation; and • Permit. <p>By-Law Parameters</p> <ul style="list-style-type: none"> • Permit based; • By-law administered by the City’s Building Commissioner; • Permit is not transferable; 	<ol style="list-style-type: none"> 1. This by-law does create an additional administrative exercise by way of a “right-of-entry permit” application; 2. The department facilitating this is the Building Department – specifically the office of the Building Commissioner; 3. The application is specific and requires: a fee; a sworn declaration; and Land Surveyor’s survey; 4. This by-law does have a valid period of two months from the date of issue, but can also be extended an additional two months for a nominal fee; 5. Contravention clause adds additional stipulations and penalties to be paid;

	<ul style="list-style-type: none"> • Completed application form and descriptions of work, land details, contact information, permit fee and deposits, owner authorization; • Fee varies based on use; • Deposit to generally equal the amount required to fully restore property if not done so by the owner seeking entry; and • Permit valid for a period of two months (subject to renewal with a smaller fee). <p>By-law Compliance & Conditions</p> <ol style="list-style-type: none"> 1) Three day notice requirement or proof of registered mailing; and 2) Obligation to leave the entered land in the condition that it was in at the time of entry <p>Does Not Authorize</p> <ul style="list-style-type: none"> • N/A <p>Municipal Responsibilities</p> <ul style="list-style-type: none"> • Inspections required to determine that the work being requested and the land(s) being requested to enter is necessary for the purposes of making repairs or alterations ; • Administrative and enforcement responsibilities <p>Notes:</p> <p>Offences and Penalties</p> <ul style="list-style-type: none"> • Contravention of provisions of this by-law will is guilty of an offence and if convicted is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, Chapter. P.33, as amended – penalty of up to \$5,000.00 excluding costs 	<p>6. This by-law does not include a section regarding interpretation of the by-law – ie Severability & singular vs plural;</p>
<p>City of London</p>	<p>By-Law No. A-6 – Access to Adjoining Property</p> <p>Passed: 1993</p>	<p>1. This by-law does not create additional administrative responsibilities for the municipality;</p>

	<p>Standard Definitions:</p> <ul style="list-style-type: none"> • N/A <p>By-law Parameters:</p> <ul style="list-style-type: none"> • Not permit based; • Owner or occupant is permitted (or agent thereof); • Consent can be given from occupier of adjoining land and notice can be foregone <p>By-law Compliance & Conditions:</p> <ol style="list-style-type: none"> 1) 48-hour notice is required when consent from adjacent landowner is not received; 2) Every owner, occupant, or agent entering the adjoining property shall leave the property in the same condition it was in prior to entry <p>Municipal Responsibilities:</p> <ul style="list-style-type: none"> • N/A as no permit is required <p>Does not Authorize:</p> <ul style="list-style-type: none"> • The infringement of rights to bring a civil action for damages (or otherwise) arising out of the entry by an owner on adjacent land <p>Notes:</p>	<ol style="list-style-type: none"> 2. This by-law does not outline definitions of terms such as “entry;” “repairs;” “maintenance;” etc; 3. This by-law does not include a section regarding interpretation of the by-law – ie Severability & singular vs plural; 4. This by-law states very clearly that Civil Rights are preserved should the owner(s) choose to take legal action as a result of the entry; 5. This by-law specifies how far in advance a notice is to be given;
<p>City of Markham</p>	<p>By-Law No. 2014-116 – Right of Access for Maintenance By-law</p> <p>Passed: 2014</p> <p>Standard Definitions:</p> <ul style="list-style-type: none"> • Adjoining Lands; • Adjoining Lands Owner; • Buildings; • Owner; 	<ol style="list-style-type: none"> 1. This by-law does not create additional administrative responsibilities for the municipality; 2. This by-law provides clear compliance requirements and conditions when entering an adjoining property;

<ul style="list-style-type: none"> • Owner’s Lands; • Permitted Access Time; and • Maintenance. <p>By-law Parameters:</p> <ul style="list-style-type: none"> • Not permit based; • Owner or occupant is permitted (or agent thereof); • Consent can be given from owner of adjoin lands owner to achieve compliance with the By-Law; • Owner assumes sole risk and responsibility for personal injury or death of any person and damage to any property; • Adjoining Lands Owner has no liability except with respect to gross negligence or wilful misconduct <p>By-law Compliance & Conditions:</p> <ol style="list-style-type: none"> 1) 48-hour notice is required when consent from adjacent landowner is not received; 2) Time of Entry; Length of Time; Certificate of Insurance; Description of the Work; Signed Statement from the Owner Conducting the Work; 3) Notice shall be in writing – personal delivery or registered mail (5 days after mail was sent is considered valid); 4) Owner must display, or upon request, produce proper identification; 5) Contractor Retained - Commercial General Liability Insurance is required; 6) Contractor retained - Clearance Certificate issued by WSIB; 7) Limitation of 5 days access per calendar year; 8) No vehicles are permitted entry; 9) Only works as described in the by-law are permitted; 10) Storage of materials is not permitted; 11) Entry is only permitted within the Permitted Access Time; 12) Failure to comply will result in revocation of authorization to entry; 13) Age requirement to enter being 18 years of age; 14) Restoration of the land to it’s original condition at the owner’s sole cost and expense; 	<ol style="list-style-type: none"> 3. This by-law does not include a section regarding interpretation of the by-law – ie Severability & singular vs plural; 4. This by-law does not include specifications on when the land can be accessed throughout the day; 5. This by-law specifies how far in advance a notice is to be given as well as provides stipulations on what qualifies as notice, as well as provisions on confirming receipt of notice (written or mail – allowing for 5 days for delivery of mail); 6. This by-law includes requirements of regarding insurance; 7. This by-law includes references to abiding by provincial and federal legislation; 8. This by-law includes stipulations regarding the age of any accessing the adjoining lands; 9. This by-law includes stipulations regarding the amount of time , in calendar days, that the property is able to be accessed; 10. This by-law includes stipulations related to responsibility and claims as it relates to personal injury and death; 11. This by-law does not include a section regarding interpretation of the by-law – ie Severability & singular vs plural;
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	<p>Municipal Responsibilities:</p> <ul style="list-style-type: none">• N/A as no permit is required <p>Does not Authorize:</p> <ul style="list-style-type: none">• Impediment of any other applicable Federal and Provincial legislation;• Entry into adjoining buildings; <p>Notes:</p>	
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