

THE CORPORATION OF THE TOWNSHIP OF PELEE
BY-LAW NUMBER: 2023 – 18

“Demand Operating Facility Agreement – TD Bank”

(February 28, 2023)

Being a By-Law to enter into a Demand Operating Facility Agreement with the Toronto-Dominion Bank.

WHEREAS pursuant to Section 407 of the *Municipal Act, 2001*, S.O. 2001, c 25, a Council may borrow for expense;

AND WHEREAS at any time during a fiscal year, a municipality may authorize temporary borrowing, until the taxes are collected and other revenues are received, of the amounts that the municipality considers necessary to meet the expenses of the municipality for the year and of the amounts, whether or not they are expenses for the year, that the municipality requires in the year for,

- (a) reserve, sinking and retirement funds;
- (b) principal and interest due on any debt of the municipality;
- (c) school purposes;
- (d) other purposes the municipality is required by law to provide for; and
- (e) the amount of principal and interest payable by a person or municipality primarily liable for a debt, if the municipality has guaranteed the debt and the debt is in default. 2001, c. 25, s. 407 (1); 2009, c. 18, Sched. 18, s. 6 (1).

AND WHEREAS except with the approval of the Ontario Land Tribunal, the total amount borrowed at any one time plus any outstanding amounts of principal borrowed and accrued interest shall not exceed,

- (a) from January 1 to September 30 in the year, 50 per cent of the total estimated revenues of the municipality as set out in the budget adopted for the year; and
- (b) from October 1 to December 31 in the year, 25 per cent of the total estimated revenues of the municipality as set out in the budget adopted for the year. 2001, c. 25, s. 407 (2); 2017, c. 23, Sched. 5, s. 56; 2021, c. 4, Sched. 6, s. 64 (1).

AND WHEREAS until the budget is adopted in a year, the limits upon borrowing under subsection (2) shall temporarily be calculated using the estimated revenues of the municipality set out in the budget adopted for the previous year. 2001, c. 25, s. 407 (3).

AND WHEREAS in subsections (2) and (3), estimated revenues do not include revenues derivable or derived from,

- (a) arrears of taxes, fees or charges; or
- (b) a payment from a reserve fund of the municipality, whether or not the payment is for a capital purpose. 2009, c. 18, Sched. 18, s. 6 (2).

AND WHEREAS the lender is not responsible for establishing the necessity of temporary borrowing under this section or the manner in which the borrowing is used. 2001, c. 25, s. 407 (5).

AND FURTHER that the Municipal Council for the Township of Pelee deems it expedient to enter into a Demand Operating Facility Agreement with the Toronto-Dominion Bank to provide short-term financing for the installation of broadband infrastructure project(s).

THEREFORE the Council of the Corporation of the Township of Pelee enacts as follows:

1. That authority is hereby granted to the Mayor and Clerk to enter into a Demand Operating Facility Agreement with TD Bank.
2. That the agreement attached as Schedule 'A' forms part of this by-law.
3. That the total amount that may be borrowed at any one time under this by-law, together with the total of any similar borrows that have not been repaid, shall not exceed from January 1st to September 30th of the current year, 50 percent of the total estimated revenue and from October 1st to December 31st of the current year, 25 percent of the total of the estimated revenues of the Corporation as set forth in the estimates adopted for the current year.
4. That any and all actions taken and required to be taken by the Mayor and Clerk, or delegate, on behalf of the Corporation of the Township of Pelee to complete this matter including the execution of the Agreement and any other associated documentation are hereby authorized; confirmed and ratified.
5. All sums borrowed under this by-law, including any applicable interest, shall be a charge upon the whole of the revenues of the Township for the current year (and, where applicable, for any previous years) as and when such revenues are received. This charge does not defeat or affect and is subject to any prior charge in favour of any other lender.
6. That this by-law shall come into force and take effect immediately upon the approval of Township Council.
7. That By-Law 2022-03 is hereby rescinded

By-law enacted this 28th day of February, 2023.

Original Signed By:

Catherine Miller
Mayor

Original Signed By:

Kristine Horst
Interim Clerk