

CORPORATION OF THE TOWN OF BRADFORD WEST GWILLIMBURY

BY-LAW NO. 2008-014

FORTIFICATION OF LAND BY-LAW

Being a By-law to regulate and prohibit excessive fortification of land and to prohibit the application of excessive protective elements to land within the Town of Bradford West Gwillimbury.

WHEREAS Section 133 of the *Municipal Act, 2001*, S.O. 2001, c. 25, provides that a municipality that is responsible for the enforcement of the *Building Code Act, 1992*, may regulate in respect of the fortification of and protective elements applied to land in relation to the use of the land and prohibit the excessive fortification of land or excessive protective elements being applied to the use of the land;

AND WHEREAS section 425 of the *Municipal Act, 2001* provides that a municipality may create offences for the contravention of by-laws;

AND WHEREAS section 429 of the *Municipal Act, 2001* provides that a municipality may establish a system of fines for offences;

AND WHEREAS sections 435 and 436 of the *Municipal Act, 2001* provide for conditions governing powers of entry on land and to conduct inspections;

AND WHEREAS the Council of The Corporation of the Town of Bradford West Gwillimbury deems it necessary for the health, safety, and welfare of the inhabitants of the Town of Bradford West Gwillimbury to enact a By-law providing for regulation of fortification of land and the application of protective devices as well as the prohibition of excessive fortification of land and the application of excessive protective elements to land within the Town of Bradford West Gwillimbury;

AND WHEREAS access to, and/or egress from land or buildings may be required by law enforcement officers in the lawful execution of their duties and/or emergency services personnel in the event of fire or other emergencies;

AND WHEREAS the fortification of land or the application of protective elements to land may hinder or prevent law enforcement officials and/or emergency services personnel, acting in the lawful course of their duties and/or in response to emergency situations, from gaining access to and/or egress from land;

AND WHEREAS the fortification of land or the application of protective elements to land is likely to pose a serious health, safety and welfare risk to law enforcement officials and/or emergency services personnel when confronted with such land when acting in the course of their lawful duties or in response to emergency situations and as well to the occupants of land whose ability to escape an emergency situation is or may be hindered or prevented;

AND WHEREAS the fortification of land or the application of protective elements to land is likely to pose a serious threat to the safety and integrity of adjoining and abutting land and as well the owners and occupiers of those lands by restricting, limiting or preventing law enforcement personnel and/or emergency services personnel from responding to emergency situations effectively and in a timely manner;

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWN OF BRADFORD WEST GWILLIMBURY ENACTS AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1 In this By-law,

- (a) "apply" or "application" means the erection, installation, extension or material alteration or repair of or application to land and includes to construct.

- (b) **"Building Code"** means O. Reg. 350/06 under the *Building Code Act, 1992*;
- (c) **"By-law"** means the Fortification of Land By-law.
- (d) **"Chief Building Official"** means the official or his or her designate, appointed by Council as the Chief Building Official pursuant to Section 3 of the *Building Code Act, 1992*.
- (e) **"construction"** means to do anything in the erection, installation, extension or material alteration or repair of a building and includes the installation of a building unit fabricated or moved from elsewhere and "construction" has a corresponding meaning.
- (f) **"Council"** means the Council for The Corporation of the Town of Bradford West Gwillimbury duly.
- (g) **"Emergency Services Personnel"** means any individual employed by a police service, fire service (including volunteer fire fighters), or ambulance service in Ontario who is acting in accordance with the obligations imposed upon them (whether by statutory or common law duty) by their position and includes any person who is directed by emergency services personnel to do or refrain from doing any thing and who acts on those directions.
- (h) **"excessive fortification"** and **"excessively fortify"** mean the construction of devices, barriers, or materials in a manner designed to hinder, obstruct or prohibit access to or from land and includes but is in no manner limited to:
 - (i) the application of protective shields, steel plates, steel bars, bullet-proof shutters or heavy gauge wire mesh to windows and other openings on any and all levels of any structures on land with the sole exclusion of basement windows or window openings;
 - (ii) the application of concrete block, brick, or other masonry or similar product to partially or completely obstruct or seal any doorway, window, or other exterior entrance or egress to land or as pillars or barriers designed to prohibit, restrict, obstruct, or impede access to any land through conventional means or modes of transportation;
 - (iii) the application of steel sheeting or plates or other similar products to the interior or exterior walls of land such as to reinforce walls or create a secondary wall such as to protect against firearms artillery, explosives, vehicle contact, shock, and the like;
 - (iv) the application of laminated glass or any other form of break resistant/proof or bullet resistant/proof material to windows or doors;
 - (v) armour plated or reinforced doors (exterior or interior) designed to resist against impact of firearms artillery, explosives, battering rams, shock or vehicle contact;
 - (vi) the construction of pillars, cones or barriers out of concrete, steel, or any other building material that are designed to obstruct, hinder, restrict, or deny access onto any land by conventional means of access or modes of transportation;
 - (vii) the construction of an observation tower designed to enable the visual observation of surrounding areas beyond the perimeter of the land actually owned or leased/rented by the occupant whether the tower is occupied by an individual or a surveillance camera or like equipment;
 - (viii) observation tower, whether integrated or not, to a building;

- (ix) laminated glass or any other type of glass or matter that is bullet-proof or difficult to break in the event of fire, installed windows and doors, including protective shutters;
 - (x) grills and bars made of metal or any other material installed on doors, windows and other openings that limit the rapid exit from a building or structure in an emergency situation, except for those installed at the basement or cellar level;
 - (xi) fence or gate constructed, installed, or maintained or reinforced with metal or similar material in excess of 3 millimetres in thickness;
 - (xii) armoured or specially reinforced doors.
- (i) **"excessive protective elements"** means devices, objects, material components, or any contrivance designed to control, hinder, restrict, or deny access to or from land and includes but is in no manner limited to the application of:
- (i) perimeter warning devices such as "laser eyes" or other types of advanced warning systems be it electronic or otherwise designed to forewarn of the encroachment onto the perimeter of land from adjoining lands or roadways but excluding similar applications to forewarn of entry into a structure located on land;
 - (ii) electrified fencing or any similar perimeter barrier including hidden traps, electrified doors or windows, land mines or other explosive devices or any weapon or thing that may become a weapon when triggered or activated on encroachment to land whether designed to, or by application in such manner is, likely to cause death or serious injury;
 - (iii) visual surveillance equipment, including video cameras, 'night vision' systems, or electronic listening devices capable of permitting either stationary or scanned viewing or listening, by an operator or viewer or listener of that equipment, beyond the perimeter of the land actually owned, leased or rented by the occupant.
- (j) **"Fire Code"** means O. Reg. 213/07 under the *Fire Protection and Prevention Act, 1997*.
- (k) **"fortification"** and **"fortify"** mean the installation, application, maintenance or construction of devices, barriers, or materials in a manner designed to restrict, obstruct or impede, hinder, or prohibit access to or from land, buildings and structures and includes excessive fortification.
- (l) **"land"** means land, including buildings, mobile homes, mobile buildings, mobile structures, outbuildings, fences, erections, physical barriers and any other structures on the land.
- (m) **"Law Enforcement Officer"** includes a police officer appointed pursuant to the *Police Services Act* and a municipal enforcement officer appointed pursuant to the *Municipal Act, 2001* or the *Police Services Act*; a chief building official appointed under the *Building Code Act, 1992*; a building inspector appointed under the *Building Code Act, 1992*; a fire inspector including the Fire Marshal, an assistant to the Fire Marshal or a Fire Chief for the purposes of the *Fire Protection and Prevention Act, 1997*; and also includes a Property Standards Officer.
- (n) **"Property Standards Officer"** means an officer who has been assigned the responsibility of administering and enforcing by-laws passed pursuant to section 15.1 of the *Building Code Act, 1992*, who may, upon producing proper identification, enter upon any land at any reasonable time without a warrant for the purpose of inspecting the land to determine:

- (i) whether the land conforms with the standards prescribed in the By-law;
 - (ii) whether an order made under section 445 of the *Municipal Act, 2001* has been complied with.
- (o) "**protective elements**" means devices, objects, material components, or any contrivance designed to control, hinder, restrict or deny access to or from land and includes excessive protective elements including surveillance equipment.
- (p) "**person**" means any natural person and any corporation registered pursuant to the *Ontario Business Corporations Act* or the *Canada Business Corporations Act*.
- (q) "**Town**" means The Corporation of the Town of Bradford West Gwillimbury.
- 1.2 The following provisions shall apply to the interpretation and application of this By-law:
- (a) any reference to a statute, regulation or other legislation in this By-law shall include such statute, regulation or other legislation or provision thereof as amended, revised re-enacted and/or consolidated from time to time and any predecessor or succession legislation thereto;
 - (b) words importing the singular number shall include the plural, and words importing the masculine gender shall include the feminine, and the converse of the foregoing also applies, unless the context of the By-law otherwise requires;
 - (c) the part numbers and headings, subheadings and section, subsection, clause and paragraph numbers are inserted for convenience of reference only and shall not affect the construction or interpretation of this By-law.

2. GENERAL PROHIBITIONS

- 2.1 No person shall excessively fortify or barricade any land, buildings or structures for the purpose of restricting, obstructing, impeding or hindering access to or exiting any land, buildings or structures.
- 2.2 No person shall apply excessive protective elements to land such as to restrict, obstruct, impede or hinder any person, including law enforcement officers and emergency services personnel, from accessing and/or exiting in a safe and timely manner, any land, buildings or structures.
- 2.3 No person shall in any manner hinder, obstruct, or attempt to hinder or obstruct, any person exercising a power or performing a duty under this By-law.
- 2.4 Any excessive fortification of or protective elements used in buildings, in whole or in part, for one of the following uses, is prohibited:
- (a) residential;
 - (b) hotel, apartment hotel;
 - (c) rooming house;
 - (d) restaurant, caterer;
 - (e) liquor licensed establishment;
 - (f) entertainment facility;
 - (g) adult entertainment establishment;
 - (h) club, as defined in the act respecting liquor permits;

- (i) dance hall;
- (j) assembly hall;
- (k) community or socio-cultural activities;
- (l) office;
- (m) physical fitness centre;
- (n) amusement hall, family recreation hall;
- (o) billiard or pool room;
- (p) social hall, and private clubhouse.

3. EXEMPTIONS

3.1 The prohibitions set out in Section 2 do not apply to the following:

- (a) financial institutions as identified and listed in Schedules I, II, and III of the *Bank Act* that is zoned for such use;
- (b) exchange bureau;
- (c) jewellery store;
- (d) government building;
- (e) museum;
- (f) toxic or hazardous product laboratory;
- (g) detention centres zoned for such use or otherwise permitted by law;
- (h) weapons or firearms centre;
- (i) lands, wherever situated, owned or occupied by the Ontario Provincial Police or an Ontario municipal police service in accordance with the *Ontario Police Services Act*;
- (j) lands, wherever situated, owned or occupied by the federal Department of National Defence;
- (k) lands, wherever situated, owned or occupied by the Royal Canadian Mounted Police;
- (l) lands owned and occupied by the Town;
- (m) other commercial, business, industrial or institutional establishments where the nature of the undertaking necessitates a particular element of excessive fortification or excessive protective elements and where such use is lawfully permitted, but only to the extent necessary having consideration for the nature of the undertaking;
- (n) lawfully permitted private dwelling where the nature of the lawful use of the dwelling necessitates particular elements of excessive fortification or excessive protective elements, but only to the extent necessary having consideration for the nature of such use;
- (o) the temporary installation of visual surveillance cameras placed throughout a land development project under active construction.

4. SCOPE AND LIMITATION OF BY-LAW

4.1 The prohibitions set out in Section 2 do not operate to prohibit:

- (a) the use or application of commercially marketed household security devices designed and applied to provide reasonable fortification and protection from theft or other criminal activity against the person or property of an individual;
- (b) the use of protective elements such as "laser eye" or other advanced warning devices on windows or doors of a dwelling house for the purpose of providing a warning to the occupants of that dwelling house or structure or to dispatch Emergency Services Personnel where an actual entry into a dwelling house has occurred;
- (c) common household alterations or renovations where the location or style of a door or window may be altered for purely aesthetic reasons and meets local Building Code and Fire Code requirements and have received any permit required to complete such alteration or renovation.

5. APPLICATION FOR PARTIAL OR COMPLETE EXEMPTION

5.1 Any person applying for a partial or complete exemption from the provisions of this By-law shall file with the Chief Building Official the following:

- (a) an application for partial or complete exemption shall be in writing and signed by the person seeking the exemption and shall be directed to the Chief Building Official;
- (b) complete details of the location of the land, including municipal address, type, number, and nature (residential, commercial, farm);
- (c) a recent survey of the land and any structures thereon;
- (d) a detailed written explanation of:
 - (i) the precise exemption(s) requested;
 - (ii) the rationale for the exemption(s), including details of proposed fortification or application of protective elements being considered; and
 - (iii) an explanation of how fortification or application of protective elements is rationally connected to the purpose for which the exemption(s) is being sought.

5.2 All applications for exemption will be reviewed by the Chief Building Official who may make any further inquiries deemed necessary and relevant and may require the provision of any additional information that shall be provided at the expense of the person seeking the exemption, including, but not limited to:

- (a) requests for further details or documentation from the person seeking the exemption;
- (b) requiring the provision of any further or other documents considered by the Chief Building Official to be necessary or relevant to the investigation of the application;
- (c) making inquiries of any department of local, provincial, or federal government considered necessary and/or relevant to the investigation of the application;
- (d) making inquiries and requesting input from local police, fire, and ambulance services, or any other department that may have an interest, issue, or concern with the application for exemption;

- (e) any decision to authorize a partial or complete exemption will be based on the results of those inquiries and investigations and will be based on consideration of the guiding principles of this By-law;
- (f) an authorized partial or complete exemption provided to a person will reference this By-law and bear the signature of the Chief Building Official;
- (g) a true copy of any authorization for exemption issued shall be forwarded immediately by the Chief Building Official to the attention of the Chief of Police, the Chief of Fire, and the Director of Ambulance Services.

6. GROUNDS FOR EXEMPTION

- 6.1 Upon review of the documentation required or requested, the Chief Building Official may issue a complete or partial exemption if:
- (a) the applicant is a person;
 - (b) there is proven to exist a rationale connection between the necessity and rationale provided for the exemption and the nature and extent of exemption requested;
 - (c) the nature and extent of authorized exemption does not exceed that which is rationally proven to be necessary; and
 - (d) the necessity of access to emergency services personnel and/or Law Enforcement Officials is not unreasonably interfered with or limited considering the need, necessity and rationale provided for the exemption.

7. POWER OF ENTRY

- 7.1 A Law Enforcement Officer may, at any reasonable time, enter and inspect any land to determine whether this By-law or an order under this By-law is being complied with.
- 7.2 Notwithstanding Section 7.1, no person shall exercise a power of entry under this By-law to enter a place, or a part of a place, that is being used as a dwelling unless:
- (a) the occupier of the dwelling, having been informed that the right of entry may be refused, consents to the entry; or
 - (b) if the occupier refuses to consent, an order is issued pursuant to section 438 of the *Municipal Act, 2001* or a warrant issued pursuant to section 439 of the *Municipal Act, 2001*.

8. ORDERS

- 8.1 Where a Law Enforcement Officer is satisfied that a contravention of this By-law has occurred, the Law Enforcement Officer may make an order requiring work to be done to correct the contravention and the order shall set out:
- (a) the municipal address or the legal description of the land;
 - (b) reasonable particulars of the contravention and the work to be done and the period within which there must be compliance with the order; and
 - (c) a notice stating that if the work is not done in compliance with the order within the period it specifies, work done may be at the expense of the owner.
- 8.2 If the work required by an order is not completed within the specified period, a Law Enforcement Officer may, at any reasonable time, enter upon the land or may make arrangements for municipal employees or a contractor retained for that purpose, to enter upon the land to do the work.

8.3 The period shall not be less than three (3) months if the excessive fortification or excessive protective elements were present on the land on the day this By-law is passed.

9. OFFENCE

9.1 Every person who contravenes any provision of this By-law is guilty of an offence.

9.2 Any contravention of this By-law constitutes a continuing offence for each day or part of the day that the contravention continues and shall constitute a separate offence under this By-law.

10. OFFENCE, PENALTY AND ENFORCEMENT

10.1 Every person who contravenes any provision of this By-law, in addition to any other penalty, is liable upon conviction to a penalty not exceeding \$.

10.2 For each day or part of a day that a contravention under this By-law continues, every person who is in contravention of the By-law is liable upon conviction to a fine of \$500.00 per day.

10.3 The conviction of a person for any breach of any provision of this By-law shall not operate as a bar to a prosecution against the same person upon any continued or subsequent breach of any provision and a court may convict any person repeatedly for continued or subsequent breaches of the By-law and the provisions of the *Municipal Act, 2001*, shall further apply to any continued or repeated breaches of this By-law.

10.4 The Chief Building Official shall be responsible for the administration of this By-law and persons who are employed or appointed as Law Enforcement Officers and Property Standards Officers. All Law Enforcement Officers are all deemed appointed and entitled to enforce the provisions of this By-law.

11. CONFLICT

11.1 Where a provision of this By-law conflicts with the provision of any other By-law of the Town or any applicable government regulation, the provision that establishes the higher standard to protect the health, safety and welfare of the general public shall prevail.

11.2 Notwithstanding section 11.1, and despite section 35 of the *Building Code Act, 1992*, if there is a conflict between the Building Code under the *Building Code Act, 1992* and this By-law, the Building Code prevails.

12. SEVERABILITY

12.1 Should a court of competent jurisdiction declare a part or whole of any provision of this By-law to be invalid or of no force and effect, the provision or part is deemed severable from this By-law, and it is the intention of Council that the remainder survive and be applied and enforced in accordance with its terms to the extent possible under law.

13. EXEMPTION LIMITED BY ACT OF LAW

13.1 Any exemption authorized by this By-law in any manner shall in no way be construed or interpreted as an exemption, limitation or excuse from a person's requirement to abide by and comply with any other federal, provincial or municipal law.

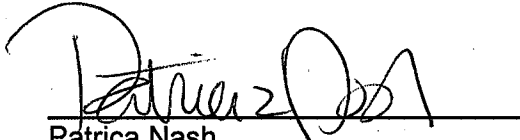
14. SHORT TITLE

14.1 This By-law may be cited as the "Fortification of Land By-law".

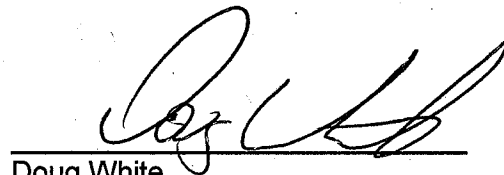
15. ENACTMENT FORCE AND EFFECT

15.1 This By-law shall come into force and take effect on the day of passing thereof.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 12TH DAY
OF FEBURARY, 2008.



Patrica Nash
Municipal Clerk



Doug White
Mayor