

**THE CORPORATION OF THE CITY OF PETERBOROUGH**

**BY-LAW NUMBER 03-007**

**BEING A BY-LAW TO REGULATE THE FORTIFICATION OF LAND AND TO PROHIBIT EXCESSIVE FORTIFICATION OF LAND AND TO PROHIBIT THE APPLICATION OF EXCESSIVE PROTECTIVE ELEMENTS TO LAND WITHIN THE CITY OF PETERBOROUGH**

**WHEREAS** Section 133 of the Municipal Act, 2001, as amended, provides that by-laws may be passed by a Council of a Municipality regulating the fortification of and protective elements applied to land within the municipality;

**AND WHEREAS** Section 133 of the Municipal Act, 2001, as amended, provides that by-laws may be passed by a Council of a Municipality for the prohibition of excessive fortification and excessive protective elements;

**AND WHEREAS** access to, and exit from land, buildings and structures may be required by municipal and law enforcement officials and/or emergency services personnel;

**AND WHEREAS** the fortification of and protective elements applied to land may restrict, obstruct or impede access to and exit from land, buildings and structures;

**AND WHEREAS** the Council of the Corporation of the City of Peterborough deems it necessary for the health, safety and welfare of the inhabitants of the City of Peterborough to enact a By-law providing for regulation of fortification of land and the application of protective elements as well as the prohibition of excessive fortification of land and the application of excessive protective elements to land within the City of Peterborough;

**AND WHEREAS** the excessive fortification of land or the application of excessive protective elements to land is likely to pose a serious risk to the health, safety and welfare of municipal and law enforcement officials and/or emergency services personnel 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 excessive fortification of land or the application of excessive protective elements to land is likely to pose a serious threat to the safety and integrity of abutting land as well as the owners and occupiers thereof by restricting, obstructing, impeding or preventing municipal and law enforcement officials and/or emergency services personnel from responding to emergency situations effectively and in a timely manner.

**THE CORPORATION OF THE CITY OF PETERBOROUGH BY THE COUNCIL THEREOF HEREBY ENACTS AS FOLLOWS:**

**DEFINITIONS**

1. In this by-law:

(a) “City” means The Corporation of the City of Peterborough;

(b) “construct” includes doing anything in the erection, installation, extension, or material alteration or repair of a building or structure, and “construction” has a corresponding meaning;

(c) “emergency services personnel” includes any individual employed by a police service, fire service (including volunteer firefighters) and 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 any emergency services personnel to do or refrain from doing anything and to act on those directions;

(d) “excessive fortification” means fortification that is excessive and includes but is in no manner limited to:

- (i) protection plaques or plates made of metal or any other material installed inside or outside a building,
- (ii) an observation tower, whether integrated or not, to a building;
- (iii) laminated glass or any other type of glass or material that is bullet-proof or difficult to break in the event of a fire, installed in windows or doors, including protection shutters,
- (iv) armored or specially reinforced doors designed to resist the impact of firearms, battering rams, explosives or vehicle contact,
- (v) grills or 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,
- (vi) masonry, including brick and concrete block over windows or doorways,
- (vii) secondary walls or other obstructions in front of landings, doors or windows,
- (viii) concrete, metal or other material installed as pillars or barriers designed to prohibit, restrict, obstruct or impede access to any land through conventional means or modes of transportation,
- (ix) any fence or gate constructed, installed, or maintained or reinforced with metal or similar materials in excess of 3 millimeters in thickness,

and “excessively fortify” has a corresponding meaning;

(e) “excessive protective elements” means protective elements that are excessive, and includes but is not limited to:

- (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 entry 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 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 entry to land whether designed to, or by application in such manner is, likely to cause death or serious injury, and
- (iii) Visual surveillance equipment, including video cameras, night vision systems, or electronic surveillance devices capable of permitting either stationary or scanned viewing or listening, beyond the perimeter of the land;

(f) “fortification” includes the installation, application, or maintenance of devices, barriers, or materials in a manner designed to restrict, obstruct or impede, or having the effect of, restricting, obstructing or impeding, access to or from land, and “fortify” has a corresponding meaning;

(g) “land” means land including buildings, mobile homes, mobile buildings, mobile structures, outbuildings, fences, erections, physical barriers and any other structure on the land or on or in any structure on the land;

(h) “Law Enforcement Officer” includes a Police Officer appointed pursuant to Section 2 of the *Police Services Act*, R.S.O. 1990, c. P.15, as amended from time to time; a Municipal Law Enforcement Officer appointed pursuant to either the *Municipal Act, 2001*, as amended from time to time, or pursuant to subsection 15(1) of the *Police Services Act*, R.S.O. 1990, c. P.15, as amended from time to time; a Chief Building Official appointed or constituted under Sections 3 or 4 of the *Building Code Act*, 1992, as amended from time to time; a Building Inspector appointed under Sections 3, 3.1, 4, 32 or 32.1 of the *Building Code Act*, 1992, as amended from time to time; a Property Standards Officer appointed pursuant to a by-law under Section 15.1 of the *Building Code Act*, 1992, as amended from time to time; and a Fire Inspector, including the Fire Marshall, an assistant to the Fire Marshall or a Fire Chief, for the purposes of Part VI of Section 18(1) of the *Fire Protection and Prevention Act*, 1997, c.4, as amended from time to time;

(i) “maintain” means to allow the continued existence of a device, barrier, structure, or material whether or not repairs are undertaken, and “maintenance” has a corresponding meaning;

(j) “person” means a natural person, a corporation, partnership or association and their heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law;

(k) “protective elements” includes any object, material component or any contrivance designed for surveillance or to restrict, obstruct, or impede, or having the effect of surveillance or restricting, obstructing, or impeding, access to and exit from land.

## **PROHIBITED MATTERS**

2. No person shall:

(a) excessively fortify any land so as to restrict, obstruct or impede Law Enforcement Officers and/or emergency services personnel from accessing or exiting any land; and

(b) apply excessive protective elements to land, or maintain excessive protective elements applied to land, so as to restrict, obstruct or impede Law Enforcement Officers and/or emergency services personnel from accessing or exiting any land.

## **EXEMPTIONS**

3. Section 2 above does not apply to:

(a) financial institutions as identified and listed in Schedule I, II, and III of the Bank Act S.C. 1991, c.46, as amended from time to time that is zoned for such use or otherwise lawfully permitted;

(b) detention centres operated by or on behalf of the Government of Canada or Ontario, zoned for such use, or otherwise lawfully permitted;

(c) lands owned or occupied by the Ontario Provincial Police or the

Peterborough Lakefield Community Police Service in accordance with the Ontario Police Service Act;

- (d) lands owned or occupied by the Federal Department of National Defence;
- (e) lands owned or occupied by the Royal Canadian Mounted Police;
- (f) lands owned and occupied by the City or by the County of Peterborough;
- (g) other commercial, business, industrial, or institutional establishments where the nature of the undertaking necessitates particular elements of excessive fortification or excessive protective elements and where such use is permitted by the Zoning By-law of the City or provided such use is otherwise lawfully permitted, but only to the extent necessary having consideration for the nature of the undertaking;
- (h) a 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.

#### **POWER OF ENTRY**

- 4. (a) A Law Enforcement Officer may, at any reasonable time, enter and inspect any land to determine whether this by-law, or an Order made under it is being complied with.
- (b) No person shall exercise a power of entry under this by-law to enter a place, or a part of a place, that is used as a dwelling, unless:
  - (i) the occupier of the dwelling place consents to entry, having first been informed of this or her right to refuse consent; or
  - (ii) If the occupier refuses to consent, the power to enter is exercised under the authority of a warrant issued under Section 158 of the *Provincial Offences Act*.

#### **ORDERS**

- 5. (a) If a Law Enforcement Officer is satisfied, the Officer may make an Order requesting work to be done to correct the contravention and the Order shall set out:
  - (i) the municipal address or the legal description of the land;
  - (ii) reasonable particulars of the contravention and of the work to be done and the period within which there must be compliance with the Order; and
  - (iii) a notice stating that if the work is not done in compliance with the Order within the period it specifies, the City may have the work done at the expense of the owner of the land, and the City may recover the expense incurred in doing it by action, or by adding the costs to the tax roll and collecting them in the same manner as taxes.
- (b) The period described in Section 5.1 (a) (ii) shall not be less than three (3) months if the fortifications or protective elements were present on the land on the day this By-law is passed.
- (c) If the work required by an Order under this Section is not done within the specified period, the City, its employees and/or agents may at any reasonable time enter upon the land to do the work.

**ADMINISTRATION AND ENFORCEMENT**

6. All Law Enforcement Officers are hereby deemed appointed and entitled to enforce the provisions of this By-law.

**PENALTIES**

7. (a) Any person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to any penalty as provided for in the *Provincial Offences Act*.
- (b) The court in which a conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.

**SEVERABILITY**

8. If a court of competent jurisdiction should declare any Section of this By-law, or part thereof, to be invalid, such Section or part thereof is deemed severable from this By-law and shall not be construed as having influenced Council to pass the remainder of this By-law and it is the intention of Council that the remainder of this By-law shall survive and remain in force.

**ENACTMENT**

9. This by-law shall come into force and effect on the date of enactment.

By-law read a first and second time this 27<sup>th</sup> day of January, 2003

By-law read a third time and finally passed this 27<sup>th</sup> day of January, 2003

(Sgd.) Sylvia Sutherland, Mayor

(Sgd.) Nancy Wright-Laking, City Clerk