

THE CORPORATION OF THE TOWNSHIP OF UXBRIDGE

BY-LAW NUMBER 2003-104

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 TOWNSHIP OF UXBRIDGE

WHEREAS Section 133 of the Municipal Act, S.O. 2001, c.25 authorizes 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 land in relation to the use of the land;

AND WHEREAS Section 130 of the Municipal Act, S.O. 2001, c.25 authorizes municipalities to regulate matters not specifically provided for by this Act or any other Act for purposes related to the health, safety and well-being of the inhabitants of the municipality;

AND WHEREAS the Council of the Township of Uxbridge deems life to be a precious commodity;

AND WHEREAS the Council of the Township of Uxbridge believes that it is its responsibility to protect all persons within the Township;

AND WHEREAS law enforcement officials and/or emergency services personnel acting in the lawful course of their duties require quick and unhindered access to provide efficient life safety services to the inhabitants of the municipality;

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;

AND WHEREAS the Council of The Corporation of the Township of Uxbridge considers the enactment of a Fortification By-law to be a matter concerning the health, safety and welfare of the inhabitants of the municipality.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF UXBRIDGE Enacts As Follows:

DEFINITIONS

1. In this By-law:

- (a) "Chief Building Official" means the officer appointed by Council as the Chief Building Official pursuant to Section 3(2) of the Building Code Act, S.O. 1992, c 23, as amended from time to time and includes a Building Inspector;

- (b) "Construct" 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;
- (c) "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 an emergency services personnel to do or refrain from doing any thing and who acts on those directions;
- (d) "Fortification and Fortify" means the construction of devices, barriers, or materials in a manner designed to hinder, obstruct or prohibit access to or from land and includes Excessive Fortification;
- (e) "Excessive Fortification and Excessively Fortified" means 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 steel plates, steel bars, bullet-proof shutters or heavy guage 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 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.
 - iii) The application of steel sheeting or plates or other similar products to the interior or exterior 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.
- (f) "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;
- (g) "Law Enforcement Officer" includes a Police Officer appointed pursuant to Section 2 of the Police Services Act, R.S.O. 1990, Chapter P.15, as amended from time to time and a "Municipal Law Enforcement Officer"

appointed pursuant to either Section 227 of the Municipal Act, S.O. 2001, c. 25, 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 and a "Chief Building Official" appointed or constituted under Sections 3(2); of the Building Code Act, 1992, as amended from time to time, and a "Building Inspector" appointed under Sections 3(2), or 32 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 s.18(1) of the Fire Protection and Prevention Act, 1997, c.4; as amended from time to time.

- (h) "Peace Officer" has the same meaning as it has in The Criminal Code R.S. 1985, c. C-46, as amended;
- (i) "Person" means a natural person, an individual, a firm, a corporation, an association or partnership and their heirs, executors, administrators or other legal representative of a person to whom the context can apply according to the law, and includes an owner, lessee and tenant of Land within the geographic limits of the Township of Uxbridge;
- (j) "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.
- (k) "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:
 - i) The application of 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) The application of 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) The application of 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.
- (l) "Township" means the geographic area of the Township of Uxbridge.

GENERAL PROHIBITION

2. No Person shall:

- (a) Excessively fortify or barricade any land for the purpose of, or which would have the effect of, restricting or hindering access to that land;
- (b) Apply excessive protective elements to land such as to restrict, obstruct 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;

- (c) In any manner hinder, obstruct, or attempt to hinder or obstruct, any person exercising a power or performing a duty under this by-law.

EXEMPTIONS

- 3. The following shall be exempt from the provisions of this By-law:
 - (a) financial institutions zoned for such use or otherwise lawfully permitted by law;
 - (b) detention centres, zoned for such use or otherwise lawfully permitted by law;
 - (c) 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;
 - (d) lands, wherever situated, owned or occupied by the Royal Canadian Mounted Police;
 - (e) security service businesses, zoned for such use or otherwise lawfully permitted;
 - (f) lands, wherever situated, owned or occupied by the Federal Department of Defence;
 - (g) all other commercial, business, industrial or institutional establishments where the nature of the undertaking necessitates particular elements of fortification or protection and where such use is permitted by the zoning by-law of the Township or provided such use is otherwise lawfully permitted.

SCOPE AND LIMITATION OF BY-LAW

- 4. Section 2 does 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.

POWER OF ENTRY

- 5. A Municipal Law Enforcement Officer, Chief Building Official or a Peace 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.

ORDERS

6. Where a Law Enforcement Officer or Chief Building Official is satisfied that a contravention of this by-law has occurred, the 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 of 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, the Township of Uxbridge may have the work done at the expense of the owner.
7. The period described in Section 6 (b) shall not be less than three months if the Excessive Fortification or Excessive Protective Elements were present on the land on the day this By-law is passed.
8. If the work required by an order under this Section is not done within the specified period, the Municipal Law Enforcement Officer, Chief Building Official or Peace Officer may, at any reasonable time, enter upon the Land or may make arrangements for municipal employees or a contractor retained by the municipality for that purpose, to enter upon the land to do the work.

DWELLINGS

9. No Person shall exercise a power of entry under this Section to enter a place, or a part of a place, that is used as a dwelling unless:
 - (a) the occupier of the dwelling consents to the entry, having first been informed of his or her right to refuse consent; or
 - (b) 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.

PENALTY AND ENFORCEMENT

10. Every Person who contravenes any provision of this By-law is guilty of an offence and upon conviction thereof is liable to a fine in the amount provided for by the Provincial Offences Act, R.S.O. 1990, c. P.33, or any successor legislation thereto.
11. The Municipal Law Enforcement Officer shall be responsible for the Administration of this By-law.
12. A Peace Officer of the Province of Ontario shall be responsible for the Enforcement of the provisions of this By-law.

CONFLICT

13. Subject to Section 14 where a provision of this By-law conflicts with the provision of any other By-law in the Township 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.

14. Notwithstanding Section 13 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.

SEVERABILITY

15. If a court of competent jurisdiction should declare any Section in this By-law, or part thereof, to be invalid, such Section or part of a Section shall not be constructed as having persuaded or influenced Council to pass the remainder of this By-law as being invalid and is hereby declared that the remainder of the By-law shall be valid and remain in force.

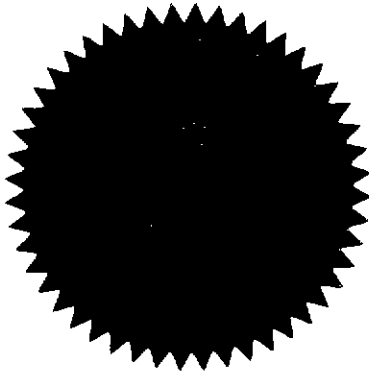
SHORT TITLE

16. The short title of this By-law shall be "The Fortification By-law".

DATE EFFECTIVE

17. This by-law shall come into force as of the date of passing thereof.

BY-LAW read a first, second and third time and finally passed this 23rd day of June, 2003.




GERRILYNN O'CONNOR
MAYOR


WALTER E. TAYLOR
CLERK