



## MISSISSAUGA

### THE CORPORATION OF THE CITY OF MISSISSAUGA FORTIFICATION BY-LAW 511-04

**WHEREAS** Section 133 of the *Municipal Act, 2001*, S.O. 2001, Chapter 25, authorizes the municipality to regulate fortification of land and prohibit excessive fortification and excessive protective elements being applied to land;

**AND WHEREAS** the excessive fortification of land or excessive protective elements may hinder lawful access by law enforcement officials and emergency services personnel;

**AND WHEREAS** the Council of The Corporation of the City of Mississauga deems it necessary to enact a by-law to prohibit excessive fortification and excessive protective elements being applied to land within the City of Mississauga;

**NOW THEREFORE**, The Council of The Corporation of the City of Mississauga ENACTS AS FOLLOWS:

#### **PART I - SHORT TITLE**

1. This By-law may be cited as the “Fortification By-law”.

#### **PART II - DEFINITIONS AND INTERPRETATION**

2. In this By-law,
  - (1) **“Apply or Application”** means the erection, installation, extension or material alteration or repair of or application to land and includes to Construct;
  - (2) **“Chief Building Official”** means the officer or his or her designate, appointed by Council as the Chief Building Official pursuant to Section 3 of the *Building Code Act*, 1992, S.O. 1992, c. 23, as amended from time to time;
  - (3) **“City”** means The Corporation of the City of Mississauga;
  - (4) **“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;
  - (5) **“Council”** means the Council of The Corporation of the City of Mississauga;
  - (6) **“Emergency Services Personnel”** means any individual employed by the Peel Police Service, the City of Mississauga and within the Mississauga Fire and Emergency Services, or Ambulance Service directed by Region in the City 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 anything and who acts on those directions;
  - (7) **“Excessive Fortification and Excessively Fortify”** means the construction of devices, barriers, or materials in a manner designed to unduly hinder, obstruct or prohibit lawful access to or from land by Law Enforcement Officers and Emergency Services Personnel, and includes but is not limited to:
    - (i) The application of steel plates, steel bars, bullet-proof shutters or heavy gauge wire mesh to window and other openings on any and all levels of any structures on land;

- (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 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 whether (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 material that may have the result of obstructing, hindering, restricting, or preventing 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 whether the tower is occupied by an individual or a surveillance camera or like equipment;
  - (viii) The application of steel sheeting or plates or other similar products to the interior or exterior, ceilings or roof structure of Land such as to reinforce to protect against firearms, artillery, explosives, shock, and the like.
- (8) **“Excessive Protective Elements”** means devices, objects, material components, or any contrivance designed to unduly control, hinder, restrict or prohibit lawful access to or from and includes but are not 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;
- (9) **“Land”** means land, including buildings, mobile homes, mobile buildings, mobile structures, outbuildings, fences, erections, physical barriers and any other structures on the land or in on any structure on the land;
- (10) **“Law Enforcement Officer”** includes a Police Officer, a Municipal Law Enforcement Officer, the Chief Building Official, a Building Inspector, a Fire Inspector including the Fire Marshall, an assistant to the Fire Marshall or a Fire Chief, and a Property Standard Officer;
- (11) **“Zoning By-law”** means the applicable zoning by-law of the City of Mississauga.

### **PART III - GENERAL PROHIBITIONS**

3. No person shall:
  - (1) Construct, cause to be constructed, or permit the construction of, Excessive Fortification;
  - (2) Apply, cause to be applied, or permit the application of, Excessive Protective Elements;
  - (3) In any manner hinder, obstruct, or attempt to hinder or obstruct, any person exercising a power or performing a duty under this By-law.

### **PART IV - EXEMPTIONS**

4. The provisions of this by-law do not apply to:
  - (1) Financial institutions as identified and listed in Schedules 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 permitted by law;
  - (2) Lands owned or occupied by the Federal or Provincial Government;
  - (3) Lands owned or occupied by the City or the Regional Municipality of Peel; and
  - (4) Lands specifically exempted from this By-law.
  - (5) Commercial, industrial or institutional establishments where the property is made more secure by the installation of steel bars in window or door openings provided the maximum dimensions of such steel bars is 3/8 inch (9.5 mm) and such steel bars are no less than 3 inches (76.2 mm) apart, and provided the bars to not extend beyond the window or door frame.
5. Council may, by by-law, exempt any Land from the provisions, in whole or in part, of this By-law.
6. A person requesting partial or complete exemption from the provisions of this By-law shall provide to the Chief Building Official the following:
  - (1) Proof of ownership of the Land and where the person requesting the exemption is not the owner, authorization from the owner to request the exemption;
  - (2) Complete details of the location of the land, including municipal address, legal description, the existing use, and nature of the use (residential, commercial, industrial or farm), and a scaled drawing showing the land and all structures on the property shall accompany the application;
  - (3) A detailed explanation shall be included of the exemption(s) requested and the rationale for requesting such an exemption(s). This should include details of proposed fortification or application of protective elements along with an explanation of how that fortification or application of protective elements is rationally connected to the purpose for which the exemption is being sought.
  - (4) Proof of ownership of the Land or proof of authorization by the owner of the Land to apply for the exemption.
  - (5) the required non-refundable fee any further information as may be deemed necessary, which shall be provided at the expense of the applicant, including an acknowledgement that inquiries may be made and input sought from other departments or levels of government including Provincial and Federal authorities, and local police and fire services.
7. In determining whether to exempt any Land from the provisions of this By-law Council may consider:
  - (1) the reason, necessity and rationale for the exemption requested;

- (2) the nature and extent of the specific exemption requested;
  - (3) the ability of law Enforcement Officers and Emergency Services Personnel to gain access to the Land as may be required.
8. The Council may revoke an exemption under this By-law.
  9. An exemption granted under this By-law is personal, not assignable, does not run with the Land, and immediately expires upon the sale of the Land or any change in occupancy or corporate control of the tenancy or ownership of the Land.

#### **PART V - POWER OF ENTRY**

10. 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.
11. 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:
  - (1) The occupier of the dwelling consents to entry, having first been informed of his or her right to refuse consent; or
  - (2) If the occupier refuses to consent, a warrant issued pursuant to Section 158 of the *Provincial Offences Act* is obtained.
12. An order may be made requiring work to be done to correct the contravention of this By-law.
13. 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 or agent retained for that purpose, to enter upon the land to do the work and the cost of such work shall be recoverable from the owner by the City in like manner as municipal taxes.

#### **PART VI - PENALTY AND ENFORCEMENT**

14. Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to the penalties specified in accordance with the *Provincial Offences Act*, R.S.O. 1990, c.P. 33, as amended.
15. The Chief Building Official shall be responsible for the administration of this by-law and all Law Enforcement Officers are entitled to enforce the provisions of this by-law.

#### **PART VII - CONFLICT**

16. Where a provision of this by-law conflicts with the provision of any other by-law of the City 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.

#### **PART VIII - SEVERABILITY**

17. 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.

#### **PART IX - EXEMPTION LIMITED BY ACT OF LAW**

18. Any exemption authorized by this bylaw 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.

#### **PART X - ENACTMENT**

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

**ENACTED AND PASSED this 15<sup>th</sup> day of December, 2004.**

**SIGNED BY: Nando Iannicca, Acting Mayor and Crystal Greer City Clerk**