

THE CORPORATION OF THE TOWN OF MINTO

BY-LAW NO. 10-21

A BY-LAW TO REGULATE THE FORTIFICATION
OF LAND AND PROTECTIVE ELEMENTS APPLIED
TO LAND AND TO PROHIBIT EXCESSIVE
FORTIFICATION OF LAND AND EXCESSIVE
PROTECTIVE ELEMENTS BEING APPLIED
TO LAND WITHIN THE
TOWN OF MINTO

WHEREAS the Council of the Corporation of the Town of Minto deems it appropriate to enact a by-law to regulate the fortification of land and protective elements applied to land and to prohibit excessive fortification of land and excessive protective elements being applied to land within the Town of Minto pursuant to Section 133 of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended,

AND WHEREAS the Council of the Corporation of the Town of Minto deems it appropriate for the health, safety and well-being of the inhabitants of the Town of Minto to enact a by-law providing for the regulation of fortification of land and protective elements being applied to land and to prohibit the excessive fortification of land and excessive protective elements being applied to land within the Town of Minto pursuant to section 130 of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended,

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWN OF MINTO HEREBY ENACTS AS FOLLOWS:

SECTION 1 – SHORT TITLE

1.1 This By-Law may be cited as the “The Fortification of Land By-Law”.

SECTION 2 – DEFINITIONS AND INTERPRETATION

2.1 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;
- (3) **“Construct” or “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;
- (4) **“Corporation”** means The Corporation of the Town of Minto;

- (5) **“Council”** means the Council of The Corporation of the Town of Minto;
- (6) **“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 anything and who acts on those directions;
- (7) **“Excessive Fortification and Excessively Fortify”** means the construction of devices, barriers, or materials applied to land and includes but is not limited to:
- (i) The application of steel plates, steel bars or bullet-resistant/proof shutters or heavy gauge wire mesh to windows or other openings on any and all levels of any structure or building 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 required doorway, window, or other exterior entrance or egress to a building or land for other than cosmetic reasons in conformance with the Ontario Building Code regulations;
 - (iii) The application of steel sheeting or plates other similar products to the interior or exterior walls of a structure or building such as to reinforce walls or create a secondary wall intended to protect against firearms artillery, explosives, vehicle contact, shock, and any other similar intrusions;
 - (iv) The application of laminated glass or any other form of break resistant/proof or bullet resistant/proof material to windows or doors;
 - (v) The installation of 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 to any building or land by Emergency Services Personnel or their modes of transportation; and,
 - (vii) The construction of an observation tower specifically 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;

- (8) **“Excessive Protective Elements”** means devices, objects, material components, or any contrivance applied to land and includes but is not limited to:
- (i) The application of perimeter warning devices such as “laser eyes” or other types of advanced warning systems be they 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; and,
 - (iii) The application of 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.
- (10) **“Fortification and Fortify”** means the construction of devices, barriers, or materials in a manner designed to strengthen, or to provide defensive works to land to prevent the entry of Emergency Services Personnel and includes **Excessive Fortification;**
- (11) **“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;
- (12) **“Law Enforcement Officer”** includes;
- (i) a Police Officer as defined in Section 2 of the *Police Services Act*, R.S.O. 1990, c. P. 15, as amended;
 - (ii) a Municipal Law Enforcement Officer appointed pursuant to subsection 15(1) of the *Police Services Act*, R.S.O. 1990, c. P. 15, as amended;
 - (iii) the Chief Building Official, or designates appointed under subsection 3(2) of the *Building Code Act, 1992*, as amended;
 - (iv) an Inspector appointed under subsection 3(2) of the *Building Code Act, 1992*, as amended,
 - (v) a Fire Inspector, the Fire Marshall, an assistant to the Fire Marshall, or the Fire Chief appointed under the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4, as amended;

- (vi) a Bylaw Enforcement Officer appointed pursuant to section 15.1 *Building Code Act, 1992*, as amended.
- (13) **“Protective Elements”** includes, but is not limited to surveillance equipment and includes Excessive Protective Elements.
- (14) **“Person”** means any natural person and includes a corporation incorporated pursuant to the laws of any jurisdiction and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law.
- (15) **“TOWN”** means The Corporation of the Towns of Minto;

SECTION 3 – GENERAL PROHIBITIONS

3.1 No person shall:

- (a) excessively fortify any land so as to restrict, obstruct or impede municipal and law enforcement officials and/or emergency personnel from accessing or exiting any land; and/or,
- (b) apply excessive protective elements to land or maintain excessive protective elements applied to land so as to restrict, obstruct or impede municipal and law enforcement officials and/or emergency personnel from accessing or exiting any land.

SECTION 4 – EXEMPTIONS

4.1 Clause 3.1 above does not apply to:

- (a) financial institutions as identified and listed in Schedules I, II, and III of the *Bank Act*, S.C. 1991, c. 46 as amended;
- (b) detention centres zoned for such use or otherwise permitted by law;
- (c) lands owned or occupied by the Ontario Provincial Police or an Ontario Municipal Police Service in accordance with the *Ontario Police Services Act*;
- (d) lands owned or occupied by the Federal Department of Defence;
- (e) lands owned or occupied by the Royal Canadian Mounted Police.
- (f) lands owned and occupied by the Corporation of the County of Wellington;
- (g) lands owned and occupied by Her Majesty In Right of Ontario;
- (h) other commercial businesses, 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 Township’s Zoning By-Law or provided such use is otherwise lawfully permitted, but only to the extent necessary having consideration for the nature of the undertaking.

SECTION 5 – SCOPE AND LIMITATION OF BY-LAW

5.1 Clause 3.1 does not operate to prohibit:

- (a) The use or application of common commercially marketed security devices designed and applied to provide reasonable fortification and protection from theft or other criminal activity against the person or property of a person; and
- (b) The reasonable use of protective elements such as a “laser eye” or other advanced warning devices on windows or doors of a dwelling house or other lawfully permitted commercial, industrial or institutional establishments 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 or building has occurred; and
- (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 the Ontario Building Code and Fire Code requirements and have received any permit required to complete such alteration or renovation.

5.2 Nothing in this by-law shall be interpreted as restricting a normal farm practice carried on as part of an agricultural operation pursuant to the *Farming and Food Protection Act, 1998*.

SECTION 6 – POWER OF ENTRY

6.1 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.

6.2 A person exercising a power of entry under this Part shall not enter or remain in any room or place actually being used as a dwelling unless,

- (a) the consent of the occupier is obtained, the occupier first having been informed that the right of entry may be refused and, if refused, may only be made under the authority of a warrant issued pursuant to the *Provincial Offences Act*;
- (b) a warrant issued pursuant to the *Provincial Offences Act* is obtained; or
- (c) the delay necessary to obtain a warrant or the consent of the occupier would result in an immediate danger to the health or safety of any person.

SECTION 7 – ORDERS

7.1 Where a Law Enforcement Officer has confirmed that a contravention of this By-law has occurred, the Chief Building Official shall make an Order requiring work to be done to correct the contravention, which may include the demolition or tearing down of the entire unauthorized structure or structures, at the sole cost and expense of the owner of the land and the Order shall set out:

- (i) The name of the owner of the land;

- (ii) The municipal address and the legal description of the land;
 - (iii) Reasonable particulars of the contravention and the work to be done and the period within which there must be compliance with the Order; and
 - (iv) A notice stating that if the work is not done in compliance with the Order within the period it specifies, the Town may have the work done at the expense of the owner.
- 7.2 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 and the cost of such work shall be recoverable from the owner by the Town in like manner as municipal taxes.
- 7.3 The period described in Clause 7.1 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 was passed.
- 7.4 The Order identified in Clause 7.1 shall be deemed to be served on the owner of the land by any of the following methods:
- (i) Personally delivered to the owner or occupant of the land, in which case the Order is deemed to come to the attention of the owner of the land on the date of the delivery;
 - (ii) Mailed by registered mail to the municipal address of the registered owner of the land, in which case the Order is deemed to come to the attention of the owner of the land on the third business day after the date of mailing;
 - (iii) Posting the Order in a conspicuous place on the land, in which case the Order is deemed to come to the attention of the owner of the land on the date of the posting.

SECTION 8 – PENALTY AND ENFORCEMENT

- 8.1 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 or any successor legislation.
- 8.2 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 the Chief Building Official are all deemed appointed and entitled to enforce the provisions of this by-law.

SECTION 9 – SEVERABILITY

- 9.1 Should a court of competent jurisdiction declare a part or whole of any provision of the 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.

SECTION 10 – EXEMPTION LIMITED BY ACT OF LAW

10.1 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.

SECTION 11 – CONFLICT

11.1 Subject to Section 11.2, 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.

SECTION 12 – ENACTMENT

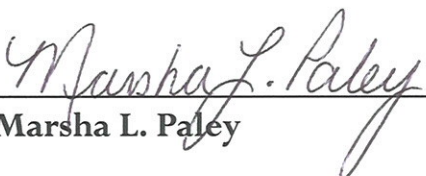
12.1 This By-law shall come into force and takes effect on the date of its final passing.

Read a first and second time this 17th day of March, 2010.

Seal



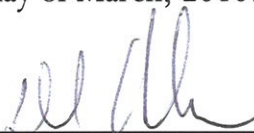
Mayor David Anderson



Clerk Marsha L. Paley

Read a third and final time and finally passed this 17th day of March, 2010.

Seal



Mayor David Anderson



Clerk Marsha L. Paley