

THE CITY OF VAUGHAN

BY-LAW

BY-LAW NUMBER 129-2022

A By-law of The Corporation of the City of Vaughan to amend the Fence By-law 189-2020, as amended.

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (*"Municipal Act, 2001"*), provides that a municipal power shall be exercised by by-law;

AND WHEREAS subsection 8 of the *Municipal Act, 2001* provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS subsection 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purposes of exercising its authority;

AND WHEREAS subsection 11 of the *Municipal Act, 2001* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS paragraph 7 of subsection 11(3) of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting Structures, including Fences and Signs;

AND WHEREAS section 98 of the *Municipal Act, 2001* provides that a municipality may provide that the *Line Fences Act*, R.S.O. 1990, c. L.17 (*"Line Fences Act"*) does not apply to all or any part of the municipality, but despite such by-law being passed, section 20 of the *Line Fences Act* continues to apply throughout the municipality;

AND WHEREAS it is deemed expedient to exclude the City from the provisions of the *Line Fences Act* as amended;

AND WHEREAS subsection 391 of the *Municipal Act, 2001* without limiting sections 9, 10 and 11, authorizes a municipality to impose fees and charges on persons;

AND WHEREAS section 398 of the *Municipal Act, 2001* provides for fees and charges imposed by a municipality on a person to constitute a debt of the person and for the municipality to add such fees and charges to the tax roll and collect them in the same

manner as municipal taxes;

AND WHEREAS Section 425 of the *Municipal Act, 2001* provides for a municipality to pass by-laws providing that a person who contravenes a by-law of the municipality passed under the Act is guilty of an offence;

AND WHEREAS subsection 434.1 of the *Municipal Act, 2001* provides for a municipality to require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality passed under the Act;

AND WHEREAS section 435 of the *Municipal Act, 2001* provides for conditions governing the powers of entry of a municipality;

AND WHEREAS section 436 of the *Municipal Act, 2001* provides that a municipality has the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law;

AND WHEREAS sections 444 and 445 of the *Municipal Act, 2001* provide for a municipality to make an order to discontinue a contravening activity or correct a contravention, with either order setting out particulars of the contravention and the date by which compliance must be achieved;

AND WHEREAS Section 23.3(4) of the *Municipal Act, 2001* it is the opinion of Council that the powers delegated to the Director of By-law and Compliance, Licensing and Permit Services, the Hearings Officer, to hold and make decisions in that hearing, pursuant to this By-law are of a minor nature;

AND WHEREAS the Council of The Corporation of the City of Vaughan deems it appropriate to amend By-law 189-2020, as amended;

NOW THEREFORE the Council of The Corporation of the City of Vaughan ENACTS AS FOLLOWS:

1. That By-law 189-2020, as amended, be further amended by repealing words “noise attenuation” from section 2.0(2).
2. That By-law 189-2020, as amended, be further amended by replacing “other forms” in Schedule A section (2)(f) with “all forms”.
3. That By-law 189-2020, as amended, be further amended by repealing the

definition of *Owner* from section 3.0(1) and replacing it with the following definition:

“Owner” means a registered owner of a *Property*, and includes but is not limited to any owner in trust, mortgagee in possession or *Person* who is a tenant or has care or control of any *Property*.

4. That By-law 189-2020, as amended, be further amended by repealing the words “and includes an *Owner*” from the definition of *Person* in section 3.0(1).

5. That By-law 189-2020, as amended, be further amended by repealing the definition of *Grade* from section 3.0(1) and replacing it with the following definition:
“Grade” means elevation of the ground surface of the lands at the point of the erection of the *Fence*.

6. That By-law 189-2020, as amended, be further amended by repealing the definition of *Property* from section 3.0(1) and replacing it with the following definition:

“Property” means a building or structure or part of a building or structure, and includes the lands appurtenant thereto, including all mobile homes, mobile buildings, mobile structures, outbuildings, *Fences* and *Erections* thereon whether heretofore or hereafter *Erected*, and includes *Vacant Land*.

7. That By-law 189-2020, as amended, be further amended by repealing the definition of *Height* from section 3.0(1) and replacing it with the following definition:
“Height” when used in relation to a *Fence*, means the vertical distance measured between the *Grade* to the highest point of the *Fence*, and that in instances where the *Grade* is different on two (2) sides of a *Fence*, the lowest point of the *Grade* shall be used to measure the *Height* of the *Fence*;

8. That By-law 189-2020, as amended, be further amended by adding the definition of *Vacant Land* to section 3.0(1) to read it as follows:

“Vacant Land” means land not being used, with no buildings or structures on the land or being built on the land, other than open space lands and not devoted to the practice of farming.

9. That By-law 189-2020, as amended, be further amended by repealing the definition of *Public Highway* from section 3.0(1) and replacing it with the following definition:

“Public Highway” means any portion of a *Highway* under the jurisdiction of municipal, provincial or federal government or its agencies, boards, commissions, departments or other bodies and includes *Public Road Allowance*.

10. That By-law 189-2020, as amended, be further amended by adding the definition of *Public Road Allowance* to section 3.0(1) to read as follows:

“Public Road Allowance” means road allowances made by the Crown surveyors that are located in the *City* and road allowances, highways, streets and lanes shown on a registered plan of subdivision.

11. That By-law 189-2020, as amended, be further amended by repealing subsection 5.0(1)(b) and replacing it with the following:

(b) any barbed wire, chicken wire or other barbed or sharp material that is used in accordance with this subsection shall be at least two point five (2.5) metres in *Height* and shall be installed on metal brackets inclined towards the enclosed area at an angle of forty-five (45) degrees.

12. That By-law 189-2020, as amended, be further amended by repealing words “fence location” in section 7.0(1).

13. That By-law 189-2020, as amended, be further amended by adding section 2.0(5) to read as follows:

(5) Despite section 2.0(1), this By-law does not apply to the location of the *Fences*.

14. That By-law 189-2020, as amended, be further amended by repealing section 9.0(4) and renumbering the sections accordingly.

15. That By-law 189-2020, as amended, be further amended by repealing section 9.0(1) and replacing it with the following:

No *Owner* shall excavate or *Erect*, or *Make Changes to a Fence*, or cause or allow excavation or *Erection* of a *Swimming Pool* without first obtaining the appropriate *Swimming Pool Enclosure Permit* certifying approval from the *Director of Development Engineering*, for the construction of a *Swimming Pool Enclosure* for the *Swimming Pool*.

16. That By-law 189-2020, as amended, be further amended by adding the definition of *Make Changes to a Fence* to section 3.0(1) to read as follows:

“Make Changes to a Fence” means alter, reconstruct or replace an existing *Fence*, but does not include normal maintenance and repair.

17. That By-law 189-2020, as amended, be further amended by repealing the words “any notice or other information” and replacing it with the following “any notice, order or other information” in section 13.0(1).
18. That By-law 189-2020, as amended, be further amended by adding the words “or notice” after each word “order” in sections 14.0(7) and 14.0(8).
19. That By-law 189-2020, as amended, be further amended by replacing the word “apples” with “applies” in section 19.0(2).
20. That By-law 189-2020, as amended, be further amended by adding the words “ensure that” after the words “required to” in Schedule A section (3).
21. That By-law 189-2020, as amended, be further amended by repealing the first instance of the word “when” after the words “close and lock” in Schedule A section (4).
22. That By-law 189-2020, as amended, be further amended by adding the definition of *Service Entrance* to section 3.0(1) to read as follows:

“Service Entrance” means the entrance into a building, which is normally used by *Persons* entering such building for the purposes of delivering goods or rendering maintenance service as opposed to the main or principal entrance and shall include a door giving access to a garage.
23. That By-law 189-2020, as amended, be further amended by repealing section (3)(e) in Schedule A and replacing it with the following and renumbering the sections accordingly:

(e) If the gate is a single gate:

- a. be self-closing and equipped with a lockable, self-latching device located on the inside near the top of the gate or on the outside at least one point five (1.5) metres above grade; and
- b. be kept locked at all times except when the enclosed area is in use.

(f) If the gate is double gate:

- a. have one gate that is self-closing and equipped with a lockable, self-latching device located on the inside near the top of the gate or on

- the outside at least one point five (1.5) metres above grade;
- b. have a second gate that is equipped with a lockable drop bolt that extends down into concrete, asphalt, or paving stones by a minimum of twenty-five (25) millimetres; and
 - c. be kept locked at all times, included keeping the lockable drop bolt in the locked position, except when the enclosed area is in use.
24. That By-law 189-2020, as amended, be further amended by adding section (3)(j) in Schedule A to read as follows:
- (j) All automatic closing devices and their power back-up systems shall be in compliance with the applicable product and installation standards of the Canadian Standards Association.
25. That By-law 189-2020, as amended, be further amended by adding section 9.0(15) to read as follows:
- (15) Where an application for a *Swimming Pool Enclosure Permit* does not contain sufficient information to enable the *Director of Development Engineering* to determine whether the proposal will contravene the provisions of this By-law, the application is deemed to be incomplete and may not be accepted.
26. That By-law 189-2020, as amended, be further amended by adding section 9.0(16) to read as follows:
- (16) Where an application for a *Swimming Pool Enclosure Permit* remains inactive or incomplete for six (6) months after it is made, the application may be deemed by the *Director of Development Engineering* to have been abandoned without any further notice to the *Owner*, as the applicant.
27. That By-law 189-2020, as amended, be further amended by adding section 9.0(17) to read as follows:
- (17) where a *Swimming Pool Enclosure Permit* application has been deemed to have been incomplete or abandoned as set out in sections 9.0(15) and 9.0(16) of this By-Law, upon written request by the *Owner*, the *Director of Development Engineering* will determine the amount of *Swimming Pool Enclosure Permit* application fees, if any, which are refundable.

28. That By-law 189-2020, as amended, be further amended by adding section 9.0(18) to read as follows:

(18) Subject to section 9.0(17) above, the amount of fees refundable shall be calculated as a percentage of the total *Swimming Pool Enclosure Permit* application fee as follows:

- (a) eighty percent (80%) if the application is cancelled prior to review;
- (b) fifty percent (50%) if the application is cancelled after commencement of the review, prior to *Swimming Pool Enclosure Permit* issuance and the pre-construction site inspection has not been conducted;
- (c) forty percent (40%) if the application is cancelled after commencement of the review, prior to *Swimming Pool Enclosure Permit* issuance and the pre-construction site inspection has been completed.

Enacted by City of Vaughan Council this 28th day of June, 2022.

Hon. Maurizio Bevilacqua, Mayor

Todd Coles, City Clerk