

## Committee of the Whole (2) Report

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**DATE:** Tuesday, December 5, 2023

**WARD(S):** ALL

**TITLE:** FORTIFICATION OF LAND BY-LAW

**FROM:**

Gus Michaels, Deputy City Manager, Community Services

**ACTION:** DECISION

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### **Purpose**

Staff seek to repeal and replace the Fortification of Land By-law 328-2003 in accordance with the approved consolidation format, and to incorporate several amendments to further enhance the safety of residents.

### **Report Highlights**

- In line with the City of Vaughan By-law Strategy, the City is continuing to consolidate and review all regulatory by-laws on a cyclical basis to create more accessible and transparent regulations.
- Through research and analysis of Vaughan's needs, along with a review of fortification regulations in different municipalities, staff have identified a need to improve and update the current Fortification of Land By-law by making amendments that would include the revision of definitions, the repeal of applications for excessive fortification exemptions, and the repeal of provisions regarding video surveillance.
- To promote more effective and expeditious compliance with the Fortification of Land By-law, staff are also recommending that the By-law that replaces it be designated under the City's Administrative Monetary Penalties By-law 063-2019, as amended, and that penalties of \$500 for failing to comply with an order be established.

## **Recommendations**

1. THAT the City's Fortification of Land By-law 328-2003 be amended to strengthen enforcement provisions by adding the By-law as a designated by-law under the Administrative Monetary Penalties By-law, with non-compliance under the By-law being liable to a monetary penalty of \$500 for every offence;
2. THAT the City's Fortification of Land By-law 328-2003 be amended by repealing applications for exemptions from the by-law and provisions in relation to video surveillance;
3. THAT the City's Administrative Monetary Penalties By-law 063-2019 be amended by designating the new Fortification of Land By-law under administrative monetary penalties program; and
4. THAT the City's Fortification of Land By-law 328-2003 be repealed and replaced to reflect the consolidated by-law format with no other material changes to the By-law, except those in these recommendations, and that the by-law be in a form satisfactory to Legal Services.

## **Background**

Currently, the City of Vaughan is undergoing a process of creating new by-laws and reviewing its existing ones. The By-law and Compliance, Licensing and Permit Services Department has been reviewing, amending and consolidating nearly 50 regulatory by-laws, among which is the Fortification of Land By-law 328-2003.

The current Fortification of Land By-law was introduced on September 22, 2003. As per the By-law Strategy, all by-laws need to be in the same format and have common general sections. Also, most City regulatory by-laws are currently under the City's Administrative Monetary Penalties By-law, allowing enforcement officers to be able to issue administrative monetary penalties.

## **Previous Reports/Authority**

- [\*Fortification By-law\*](#) (approved by Council on September 22, 2003)
- [\*Administrative Monetary Penalties By-law\*](#) (approved by Council on May 1, 2019)

## **Analysis and Options**

### **Jurisdictional Comparison**

BCLPS has conducted a cross-jurisdictional scan, comparing fortification regulations in regard to video surveillance in ten municipalities, including Vaughan, Toronto, Mississauga, Burlington, Hamilton, Markham, Brampton, Niagara Falls, London and Oakville. Toronto, Markham, Oakville and Niagara Falls do not regulate video surveillance in their by-laws. City of Toronto also has a report and online guidance

document explaining the reasons for not regulating this. They state that, while the cities have the authority to restrict or prohibit surveillance cameras from recording beyond the property owned or occupied by an individual, not only is it very challenging to restrict the camera's field of view due to the proximity of properties, but also that enforcing these regulations would be time and resource intensive, as enforcement personnel would need to submit an application to a Justice of the Peace and obtain a search warrant to review the footage and determine whether the camera is in fact properly situated. Out of the remaining municipalities that have provisions on video surveillance in their by-laws, two municipalities (London and Brampton) either do not accept complaints on video surveillance at all or direct such complaints to Police. Only one municipality along with Vaughan (Hamilton) state in its by-law that its officers conduct progressive enforcement and may request access to live footage or screen shots of surveillance cameras.

On the basis of the cross-jurisdictional scan and internal review and discussions, staff are proposing to repeal and replace Fortification of Land By-law 328-2003 to ensure that all regulatory By-laws have similar language, and are standardized, transparent and accessible for citizens. Also, staff recommend designating the by-law that will repeal and replace Fortification of Land By-law 328-2003 under the City's Administrative Monetary Penalties By-law 063-2019, as amended. In addition, staff are proposing a number of amendments to the Fortification of Land By-law which will be evident in the new by-law, including:

- 1) introducing new general sections, in accordance with the City's approved by-law format, including short title, applicability and scope, fines, severability, transition, conflict with other by-laws, and force and effect;
- 2) updating definitions in the current By-law, so they are in line with those found in other by-laws;
- 3) repealing the ability for persons to apply for exemptions from excessive fortification provisions in the By-law. During consultations with Enforcement Services, Vaughan Fire and Rescue Services, and Building Standards, none of those departments remembered any exemption applications ever being received and do not see any reason to provide such exemptions, as permitted exceptions are already covered in the By-law;
- 4) repealing of any provisions in relation to video surveillance in the By-law, as per the request from Enforcement Services and approval of Legal Services. The reason to remove cameras and any recording devices completely from the By-Law is that the original intent of the By-Law is to ensure the safety of emergency personnel responding to emergencies by ensuring unrestricted access onto properties and buildings. Enforcement staff stated that there are challenges with by-law enforcement of video surveillance complaints, as in the majority of

occasions Officers have to rely on voluntary consent to view a camera's recordings. Otherwise, rarely is there sufficient evidence to obtain warrants to access cameras. Additionally, this provision often contradicts with the Police's mandate for obtaining evidence, as residents often advise they were told by the Police to erect cameras, so they can capture any criminal activity whether it's on their own, public or neighbors' property.

### **Financial Impact**

There is no financial impact to the City's budget as a result of the recommendations of this report.

### **Operational Impact**

During the review of the Fortification By-law, and in the course of preparation of this report, BCLPS consulted with other City departments, including Building Standards, Vaughan Fire and Rescue Services, and Legal Services.

### **Broader Regional Impacts/Considerations**

There are no specific broader impacts or regional considerations beyond those already discussed in this report.

### **Conclusion**

In accordance with City of Vaughan By-law Strategy, and in order to obtain greater efficiency in the administration of fortification of land regulations in the City, it is deemed expedient to update and reformat the City's Fortification of Land By-law by repealing and replacing it. Also, it is recommended to amend outdated definitions, repeal application for exemptions on excessive fortification and repeal any provisions in relation to video surveillance in the By-law. To promote more effective and expeditious compliance with the by-law that will repeal and replace the Fortification of Land By-law, staff are recommending that the By-law be designated under the City's Administrative Monetary Penalties By-law, and that penalties of \$500 for failing to comply with an order be established.

**For more information**, please contact: Susan Kelly, Chief Licensing Officer and Director of By-law and Compliance, Licensing and Permit Services, ext. 8952.

### **Attachments**

N/A

**Prepared by**

Kristina Palayeva, Regulatory Business Analyst, ext. 8721

**Approved by**

A handwritten signature in blue ink, appearing to read "Gus Michaels".

Gus Michaels, Deputy City Manager,  
Community Services

**Reviewed by**

A handwritten signature in black ink, appearing to read "Nick Spensieri".

Nick Spensieri, City Manager