

# *THE CITY OF VAUGHAN*

# *BY-LAW*

## BY-LAW NUMBER 126-2024

**A By-law to establish rules for how the *Road Allowance* may be used, which includes, but is not limited to, encroachment, newspaper boxes, road occupancy, snow clearing and prohibited activities, and which repeals the Encroachment By-law 034-2017, Newspaper Boxes By-law 372-2004, Road Occupancy By-law 294-94, Roadside Sales By-law 125-98, and Snow Clearing By-law 227-2022.**

**WHEREAS** section 11(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25 (the "*Municipal Act*") allows municipalities to pass by-laws which address *Public* assets of the municipality, as well as health and safety of persons;

**AND WHEREAS** section 425(1) of *Municipal Act* allows municipalities to pass by-laws, providing that a person who contravenes the by-law is guilty of an offence;

**AND WHEREAS** section 429(1) of *Municipal Act* enables municipalities to establish a system of fines for offences under a by-law;

**AND WHEREAS** section 434.1 of the *Municipal Act* provides that a municipality may require a person to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality;

**AND WHEREAS** section 435 of *Municipal Act* establishes the conditions under which the *City's Enforcement Officers* may enter onto *Private Property*;

**AND WHEREAS** section 436 of *Municipal Act* provides municipalities with the authority to pass by-law which allows the municipality to enter onto land at any reasonable time for the purpose of carrying out an inspection to determine whether a by-law is being complied with;

**AND WHEREAS** section 441.1 of *Municipal Act*, state that a municipality can add unpaid fines to the tax roll of the *Property* of the *Person* who owes them;

**AND WHEREAS** sections 444 and 445 of *Municipal Act* state that a municipality can *Order* someone in contravention of a by-law to discontinue the contravening activity or

to Order this Person, a Property Owner or Occupant, or someone who caused or permitted the contravening activity to correct the contravention;

**AND WHEREAS** the *Provincial Offences Act, R.S.O. 1990, c. P.33* (the “*Provincial Offences Act*”) establishes rules for governance of provincial offences and judicial proceedings and penalties;

**AND WHEREAS** section 55 of the *Community Safety and Policing Act, 2019, S.O. 2019, c. 1. Sched. 1* (the “*Community Safety and Policing Act*”), states that a municipality may appoint persons to enforce municipal by-laws;

**NOW THEREFORE**, the Council of The Corporation of the City of Vaughan hereby enacts as follows:

### **1.0 Short Title**

(1) This by-law shall be known and may be cited as the “Road Allowance By-law”.

### **2.0 Applicability and Scope**

(1) The provisions of this by-law apply to all *Public Lands* in the City of Vaughan.

(2) Where any provision of this by-law is in conflict with a provision of any other City by-law, the more restrictive provision shall prevail.

### **3.0 Definition and Interpretation**

(1) In this by-law, unless the context otherwise requires, words imparting the singular number shall include the plural, and words imparting the masculine gender shall include the feminine and further, the converse of the foregoing also applies where the context requires.

(2) Wherever a word is used in this By-law with its first letter capitalized and the whole word italicized, the term is being used as it is defined in 3.0(4) of this by-law. Where any word appears in ordinary case, the commonly applied English language meaning is intended.

(3) Any reference to a statute, regulation, by-law or other legislation shall include such statute, regulation, by-law or legislation as amended, re-enacted, replaced, or superseded.

(4) For the purposes of this By-law:

“Administrative Monetary Penalties By-law” refers to the *City’s* Administrative Monetary Penalties By-law 063-2019;

“Arborist” means a *Person* who has an Arborist certification, or equivalent, through the Ontario Ministry of Training, Colleges and Universities, the International Society of Arboriculture (ISA), the American Society of Consulting *Arborists* (ASCA), or is a Registered Professional Forester as defined in the *Professional Foresters Act, 2000*, S.O. 2000, c. 18;

“Applicant” refers to the *Person* seeking to obtain a *Permit*;

“Bin” means a container, such as those used for waste disposal during *Construction*;

“Boulevard” means that part of a *Highway* that is not used, or intended to be used, for vehicular travel by the general *Public*, and is situated between the travelled portion of the road and the adjoining *Property Line*;

“City” means the Corporation of the City of Vaughan;

“Collectible Waste” means any material approved for collection by the *City* for Curbside Collection Service or On-site Collection Service, as per the *Waste Collection By-law*;

“Committee of Adjustment” refers to the *City* committee appointed by Council to decide the outcome of applications for building, development and *Property*-related matters under the authority of the *Planning Act*;

“Community Safety and Policing Act” refers to the *Community Safety and Policing Act, 2019*, S.O. 2019, c. 1, Sched. 1;

“Construction” includes any activities related to the building, alteration, or repair of a building, curb, or structure, and includes preparatory and cleanup activities, such as the mixing of *Construction* materials and creation of scaffolding;

“Designated By-law” has the same meaning as in the *Administrative Monetary Penalties By-law*;

“Director” refers to either the *Director of By-law and Compliance, Licensing and Permit Services* or *Director of Transportation and Fleet Management Services*;

“Director of By-law and Compliance, Licensing and Permit Services” means the Director and Chief Licensing Officer of By-law and Compliance, Licensing and Permit Services, or his or her designate;

“Director of Transportation” means the Director of Transportation and Fleet Management Services, or his or her designate;

“Driveway” means a vehicular accessway which provides access from a *Public* road or private road to parking spaces, loading spaces or drop-off areas, in line with the *Zoning By-law*;

“Electric Kick-Scooter” means a vehicle that has:

- (a) two wheels placed along the same longitudinal axis, one placed at the front of the kick-scooter and one at the rear,
- (b) a platform for standing between the two wheels,
- (c) a steering handlebar that acts directly on the steerable wheel, and
- (d) an electric motor not exceeding 500 watts that provides a maximum speed of 24 kilometres per hour;

“Emergency Work” means any necessary work undertaken by the *City* to address an immediate danger to the health, safety, or well-being of any *Person* or *Property*;

“Encroachment” means any type of landscaping, vegetation, or item of *Personal Property*, that is located wholly or partially on *Public Lands* that are adjacent to *Private Property*, whether above or below *Grade*;

“Encroachment Agreement” means a *City* agreement with a *Property Owner* that allows an *Encroachment*;

“Enforcement Officer” means a *Person* appointed by the Council of the *City* as a Municipal Law Enforcement Officer, pursuant to section 15 of the *Police Services Act* or section 55 of the *Community Safety and Policing Act*, to enforce the provisions of this By-law, or a sworn member of York Regional Police, Ontario Provincial Police, or the Royal Canadian Mounted Police;

“Fees and Charges By-law”, refers to the *City’s Fees and Charges By-law 224-2023*;

“Fence” means a barrier or any structure, except a structural part of a building, that wholly or partly screens from view, encloses or divides a *Yard* or other land, or marks or substantially marks the boundary between adjoining land, and includes any shrubbery or other plantings that have the same effect;

“Fence By-law” refers to *City’s Fence By-law 189-2020*;

“Grade” means the elevation of the ground surface;

“Harassment” means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome;

“Hearings Officer” means a *Person* appointed to such by the City Clerk;

“Highway” includes a common and *Public Highway*, street, avenue, parkway, *Driveway*, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general *Public* for the passage of vehicles and includes the area between the lateral *Property Lines* thereof;

“Licence”, “Licensee”, “Permit” or “Permit Holder” refers to an approval or a *Person* who holds an approval from the *City* or *Region* for such *Person* to operate a business or conduct an activity in accordance with a *City* or *Regional* by-law;

“Licensing By-law” refers to *City’s Licensing By-law 122-2022*;

“Littering and Dumping By-law” refers to *City’s Littering and Dumping By-law 103-2020*;

“Multi-Use Pathway” refers to a shared in-*Boulevard* path that intended for pedestrians and cyclists, that are separate from the roads intended for motorists;

“Municipal Act” refers to the *Municipal Act, 2001*, S.O. 2001, c. 25;

“Necessary Municipal Work” means work being undertaken by the *City*, the *Region*, or any Canadian governmental agency in order to maintain or repair *Public Infrastructure* and/or the *Road Allowance*;

“Newspaper Box” means a structure used to store and distribute newspapers and other *Publications*;

“Nuisance” means a behaviour causing inconvenience, annoyance, discomfort, injury, *Harassment* or other negative consequence;

“Occupant” includes every *Person* living in a *Property* who is at least eighteen (18) years of age;

“Official Sign” means any sign or roadway, curb or sidewalk marking or other device placed or erected on a highway under the authority of the *Traffic By-law*;

“Ontario Heritage Act” refers to the *Ontario Heritage Act*, R.S.O. 1990, c. O.18;

“Order” means a written notice issued by an *Enforcement Officer* directing a *Person* to take some action in compliance with a *City* by-law;

“Owner” includes the *Owner* of the *Property*, as well as a lessee that is required to repair and maintain the *Property*;

“Person” means an individual, sole proprietor, partnership, corporation, or an individual acting in the capacity of a trustee, executor, administrator or other such legal capacity;

“Personal Property” means any item that is owned by a *Person*;

“Police Services Act” refers to the *Police Services Act*, R.S.O. 1990, c. P.15;

“Power-Assisted Bicycle” means a vehicle that:

- (a) is a pedal-driven bicycle of conventional exposed fork-and-frame bicycle design and appearance that does not resemble a motor scooter or motorcycle and that:
  - (i) has two or three wheels,
  - (ii) is fitted at all times with pedals that are always operable to propel the bicycle,
  - (iii) is capable at all times of being propelled on level ground solely by using muscular power to operate the pedals,
  - (iv) has steering handlebars,
  - (v) has wheels that have a width of not less than 35 millimetres

and a diameter of not less than 350 millimetres,

(vi) has one or more electric motors that, singly or in combination, have a continuous rated output power not exceeding 500 watts and that is incapable of providing propulsion assistance when the bicycle attains a speed of 32 kilometres per hour or more, and

(vii) weighs not more than 55 kilograms,

(b) has the appearance of a motor scooter, with a seat and an open frame that may be stepped through and a platform on which the rider's feet may rest and that:

(i) meets the description in subclauses (a) (i) to (vi), and

(ii) weighs not more than 120 kilograms,

(c) is a vehicle that has the appearance of a motorcycle, with a saddle designed to be straddled and a footrest, pedals or pegs where the rider's feet may remain secure, and that meets the description in (b)

(i) and (ii);

“Private Property” means a *Property* that is owned by a *Person*, and includes all buildings and structures thereon;

“Property” means a building or structure or part of a building or structure and includes its *Yard* and all mobile structures, outbuildings, and fences on the *Property*;

“Property Line” means the division between *Private Property* and *Public Lands*;

“Property Standards” refers to the *City’s Property Standards By-law 231-2011*;

“Public” for the purpose of this By-law refers to something owned by the *City, Regional Municipality of York, Province of Ontario, Government of Canada, or other Canadian government agency*;

“Public Infrastructure” means any *Public* asset located above *Grade* on the *Boulevard* and includes, but is not limited to, mailboxes, fire hydrants, hydro boxes, streetlamps, street furniture, and *City* trees or other plantings;

“Public Lands” means lands owned by the *Public*, and shall include but not be limited to the *Boulevard*, any *Highway*, lane, alley, square, place, viaduct or trestle, waterway or bridge, park, woodland, greenbelt, storm water management facility, open space, municipal golf course or cemetery, *Multi-Use Pathway*, and all parts thereof;

“Public Transit” means a transit service operated by, for or on behalf of the Government of Ontario, a municipality in Ontario or a transit commission or authority in Ontario, as part of a regular passenger transportation service;

“Refreshment Vehicles” has the same meaning as in the *Licensing By-law*, a vehicle which is licensed by the *City* to sell refreshments, such as coffee, ice cream, and hot dogs, and which may be motorized or muscle-powered vehicles;

“Region” or “Regional” refers to the *Regional Municipality of York*;

“Residential Use” or “Residential Zone” refers to land zoned for habitation;

“Road Allowance” refers to the *Public Lands* in between *Private Properties*, including but not be limited to the *Boulevard*, any *Highway*, lane, alley, square, place, viaduct or trestle, waterway or bridge, park, woodland, greenbelt, storm water management facility, open space, municipal golf course or cemetery, and all parts thereof;

“Road Occupancy” refers to the act of using or occupying the *Road Allowance*, including instances where an *Applicant* would like to place something on the *Road Allowance*, such as a *Bin*;

“Road Work” refers to the act of performing *Construction* on the *Road Allowance*, such as by cutting, digging or other means, such as for purpose of access to *Public* utilities and/or sewers;

“Retail Sales” means sale, offering or display of *Personal Property* or services for sale to a consumer;

“Sign By-law” refers to the *City’s Sign By-law 140-2018*;

“Sight Triangle” refers to the triangular area on a corner lot, which if obstructed, could block sightlines for vehicular and pedestrian traffic, potentially creating a health and safety hazard; the triangle is formed by the two street lines of the lot, with the third line connecting them at point which is dependent on the characteristics of the environment;

“Special Events” refers to an event approved under the *Special Events By-law*, and may include an event that occurs on the *Road Allowance*;

“Special Events By-law” refers to *City’s* Special Events By-law 045-2018;

“Traffic By-law” refers to the *City’s* Traffic By-law 284-94;

“Treasurer” means the Chief Financial Officer and *Treasurer* for the *City*, or his or her designate;

“Tree Protection By-law” refers to the *City’s* Tree Protection By-law 052-2018;

“Waste Collection By-law” refers to *City’s* Waste Collection By-law 135-2017;

“Yard” means the land, other than *Public Land*, that is part of a *Property*, such as the land around any part of a building or structure;

“Zoning By-law” refers to the *City’s* Comprehensive Zoning By-law 001-2021.

#### **4.0 General Provisions**

(1) No object shall be placed, and no condition shall be allowed to exist, on or above the *Road Allowance* which:

- (a) creates a health or safety issue, or contributes to erosion, flooding or a negative effect on the environment; and
- (b) obstructs, disrupts or otherwise hinders pedestrian and/or vehicular traffic and/or sightlines.

(2) The following activities are prohibited on the *Road Allowance* at any time:

- (a) sale of tickets;
- (b) street performances;
- (c) promoting businesses or events, such as, but not limited to, handing out flyers;

- (d) damaging, destroying, obstructing, defacing, placing stickers on, or otherwise dirtying of the *Road Allowance* and *Public Infrastructure*;
  - (e) climbing on *Public Infrastructure*;
  - (f) lodging;
  - (g) locking of bicycles, vehicles or other objects to *Public Infrastructure* that is not intended for that purpose;
  - (h) use of fire;
  - (i) Sale of goods on the *Road Allowance*, except as allowed by the *Licensing By-law*, such as by *Refreshment Vehicles*;
  - (j) activities which may contribute to a greater likelihood of flooding, including the filling in of ditches, other infrastructure or areas on the *Road Allowance* which are intended to facilitate drainage;
  - (k) placing materials on the *Road Allowance* that may hinder *City* maintenance such as snow plowing and garbage collection, and/or may inhibit access to *City* utilities or other *City* infrastructure, such as sprinklers, landscaping, sports equipment or furniture;
  - (l) damaging or destroying *City* trees, including placement of materials on the *Road Allowance* that may damage or hinder the growth of trees, in line with the *Tree Protection By-law*;
  - (m) operating an *Electric-Kick Scooter* or *Power-Assisted Bicycle* on a *Sidewalk*, except where *Official Signs* to that effect are erected to allow this.
- (3) Various *City*-approved activities may be allowed on the *Road Allowance* through *City*-issued *Permits*, such as Special Events as approved in the *Special Events By-law*, or with permission from the *City*.

## **5.0 Permits**

- (1) *Permits* are required for the following activities to take place on the *Road Allowance*:

- (a) *Newspaper Boxes*, as per section 6.0;
  - (b) *Road Occupancy*, as per section 7.0;
  - (c) *Encroachment*, as per section 8.0.
- (2) The powers and authority to issue, refuse to issue, cancel, revoke or suspend a *Permit*, or to impose terms and conditions on a *Permit*, are hereby delegated to the *Director of By-law and Compliance, Licensing and Permit Services*, for *Newspaper Box and Encroachment Permits*, and the *Director of Transportation*, for *Road Occupancy Permits*.
- (3) Despite 5.0(1), the *City, Region* or other Canadian governmental agency does not require *Permits* for *Necessary Municipal Work* or *Emergency Work*, but shall provide reasonable notice to the *City* of said work.
- (4) Where *Permits* are required, to apply for a *Permit* an *Applicant* must submit the following to the *City*:
- (a) a completed application form with any required attachments; and
  - (b) payment of the required fee as listed in the *Fees and Charges By-law*.
- (5) In addition to considering the contents of a completed application and any other attachments, when deciding whether to approve a *Permit*, the following will be considered:
- (a) health and safety of the community;
  - (b) potential *Nuisance*;
  - (c) financial or other impact to the *City*, such as, but not limited, whether it would restrict other *City* activities and development and/or remedial work; and
  - (d) the *Applicant's* existing or prior *Licences, Permits* and related by-law infractions.
- (6) If the *Applicant* provides any false information or is in non-compliance with this or other *City By-law* or *Permit*, the *Permit* may be refused, suspended or revoked.
- (7) If a *Permit* is granted and the *Permit Holder* causes, or allows the *Road Allowance* to become altered, dirtied or otherwise damaged, the *Permit Holder* is required to restore the *Road Allowance* to its original condition.
- (8) Where a *Person* has submitted an application for a *Permit* and has submitted the fee for the application under this By-law, the application fee is non-refundable.

- (9) Where a *Director* makes any of the following decisions with respect to a *Permit*, a written notice of that decision shall be given to the *Permit Applicant* or holder:
- (a) a *Permit* application should be refused;
  - (b) a *Permit* should be revoked;
  - (c) a *Permit* should be suspended; or
  - (d) a term or condition on the *Permit* should be imposed.
- (10) The written notice to be given under subsection 5.0(9) shall:
- (a) set out the grounds for the decision;
  - (b) give reasonable particulars of the grounds; and
  - (c) be signed by the *Director* with the authority over that *Permit*.

## **6.0 Newspaper Box Permits**

- (1) No *Person* shall place a *Newspaper Box* on the *Road Allowance* without obtaining a *Newspaper Box Permit*.
- (2) To apply for a *Newspaper Box Permit*, in addition to the requirements of section 5.0, *Applicants* must submit the application fee, as listed in the *Fees and Charges By-law*, along with the following:
- (a) the *Applicant's Newspaper Box Licence*, issued under the *Licensing By-law*;
  - (b) the *Applicant's* name and contact information;
  - (c) the proposed location for the *Newspaper Box*, including site drawing with dimensions of the *Newspaper Box*;
  - (d) proof of at least \$2,000,000 in liability insurance which addresses the use of the proposed location of the *Newspaper Box*.
- (3) The *Permit Holder* must ensure that the following conditions are met:
- (a) that a *Newspaper Box* not be located in front of a *Property* that is zoned for *Residential Use*;
  - (b) that a *Newspaper Box* be placed and bolted to a concrete pad;
  - (c) that a *Newspaper Box* be located in only one of the following three locations:
    - (i) between a *City* sidewalk and *Property Line*;

- (ii) on a *Boulevard* if the *Boulevard* between the sidewalk and curb is 2.0 meters in width or wider;
  - (iii) at an intersection, in which there can be up to two *Newspaper Boxes* at the intersection on diagonally opposite corners, and in which each is setback at least 10.0 metres from the corners of the intersection.
- (4) The *Permit Holder* must ensure that the *Newspaper Box*:
  - (a) does not obstruct or block sightlines of pedestrian or vehicular traffic, *Driveways* or pathways;
  - (b) does not obstruct passenger movement at a *Public Transit* station or loading area;
  - (c) is not located in a *Public Transit* station or within 2.0 metres of a *Public Transit* bench or shelter;
  - (d) does not interfere with snow removal on the *Road Allowance*;
  - (e) does not interfere with access to maintenance of *Highways*, traffic signs, utilities and/or *Public Infrastructure*;
  - (f) is not located within 3.0 meters of a fire hydrant; and
  - (g) is not located within 10.0 meters of a pedestrian crossing.
- (5) The *Newspaper Box* must be neat, clean and rust-free condition at all times.
- (6) Every *Permit Holder* shall be responsible for all costs associated with:
  - (a) the placement, maintenance, removal and relocation of *Newspaper Boxes* and their concrete pads; and
  - (b) any damage to utilities and *Public Infrastructure* as a result of *Newspaper Box* placement, maintenance, removal and relocation.
- (7) Where a *Newspaper Box Licensee's Licence* has been revoked under the *Licensing By-law*, the *Licensee* shall remove all *Newspaper Boxes* on the *Road Allowance* within seven (7) days, or this shall be done by the *City* at the *Owner's* expense.

- (8) If the *Permit Holder* does not remove or relocate a *Newspaper Box* as directed by an *Order* from *City* staff, in accordance with section 10.0, the *City* may do so and charge the *Permit Holder* for this work.

## 7.0 Road Occupancy Permits

- (1) No Person shall, without a *Road Occupancy Permit*:
- (a) perform *Road Work* on the *Road Allowance*, such as *Construction* on, remediation of, opening of and/or digging into the *Road Allowance*; or
  - (b) temporarily use or occupy space on the *Road Allowance*, such as with a *Bin* or *Construction* equipment.
- (2) To apply for a *Permit*, in addition to the requirements of section 5.0, *Applicants* must apply at least 10 business days in advance of the proposed work, which includes the submission of the application fee, as listed in the *Fees and Charges By-law*, along with the following:
- (a) the *Applicant's* name and contact information;
  - (b) an overview of the *Road Work* that the *Applicant* would like to perform on the *Road Allowance* or the reason for occupying the *Road Allowance*, accompanied by any supporting documentation from other public agencies, utility companies, and any blockages of *Driveways*;
  - (c) if the proposed work requires that the *Applicant* be licensed, a copy of the *Licence*;
  - (d) the proposed location for *Road Work*, including site drawing with dimensions;
  - (e) the proposed dates and times of the *Road Work*;
  - (f) the proposed traffic control plan, which may include, as determined by the *City*:
    - (i) alternate routes to ensure all *Property Owners* can access their *Properties*;

- (ii) barriers and/or barricades around portions of the *Road Allowance* and/or *Highway* that are partially or fully closed, which are illuminated between sunset and sunrise, such as with red and yellow flashing lights;
  - (iii) additional lighting;
  - (iv) directional signage for traffic, such as for alternate routes;
  - (v) traffic control devices;
  - (vi) measures to mitigate impacts to waste collection services, as well as waste management and restoration measures; and
  - (vii) other measures required to address health, safety and wellness.
- (g) proof of commercial general liability insurance, with the amount to be determined by the *Director of Transportation*; and
  - (h) any additional documents requested by the *City*.
- (3) If the *Permit* is approved, the *Permit Holder* must:
- (a) provide notice to any residents and businesses whose *Driveways* will be blocked at least 24 hours in advance of the *Road Work* or *Road Occupancy*;
  - (b) implement the traffic control measures approved by the *Permit* prior to the start, and for the duration, of activities approved in the *Permit*.
- (4) If the *Permit Holder* would like the *Permit* end date to be extended to a later time, the *Permit Holder* must apply for this extension at least five (5) business days prior to the *Permit* expiry date.

## **8.0 Encroachment**

- (1) The following are exempt from the application of section 8.0:
- (a) signs as authorized through the *Sign By-law*;
  - (b) *Collectible Waste* as defined in the *Waste Collection By-law*;
  - (c) *Waste*, as defined in the *Littering and Dumping By-law*;

- (d) maintenance and occupancy of *Property*, as authorized by the *Property Standards By-law*;
  - (e) *Newspaper Boxes*, as per section 6.0;
  - (f) mailboxes belonging to the Canada Post Corporation or any of its agents;
  - (g) properties that are designated by *City* by-law as being of historic or architectural value or interest pursuant to the *Ontario Heritage Act*;
  - (h) a temporary *Encroachment* arising from *Construction*, maintenance or other activity as authorized under a valid *Permit* issued by the *City*;
  - (i) an *Encroachment* permitted as a result of a written and signed agreement with the *City* or other than an *Encroachment Permit*;
  - (j) an *Encroachment* authorized by the *Committee of Adjustment* or other *City* staff to allow a residential *Private Property* to widen his or her *Driveway* and modify his or her curbs; and
  - (k) an *Encroachment* arising from surface changes to residential *Driveways*, provided such *Encroachments* have not been constructed within a *Sight Triangle* and are in compliance with all *City* by-laws.
- (2) No *Person* shall erect, place, alter or continue, or cause to be erected, altered, placed or continued, an *Encroachment* on the *Road Allowance* if it:
- (a) is located on or extends onto any *Public Lands* other than the *Boulevard*;
  - (b) creates an unsafe condition or a hazard;
  - (c) interferes with *City* operations;
  - (d) modifies or interferes with *Public Infrastructure*;
  - (e) is not maintained in a state of good repair; or
  - (f) contravenes this or any other *City* or *Region* by-laws.
- (3) An *Encroachment* on the *Road Allowance* is allowed without a *Permit* if it:
- (a) is more than 30 centimetres from a sidewalk or *Multi-Use Pathway* and it is above *Grade*;

- (b) is more than 100 centimetres from the street curb and it is above *Grade*;
  - (c) does not extend higher than 30 centimetres above *Grade*, as measured at the curb, within a *Sight Triangle*;
  - (d) is more than 100 centimetres from any *Public Infrastructure*;
  - (e) is more than 200 centimetres when the *Encroachment* extends more than 30 centimetres above grade; and
  - (f) is more than 300 centimetres from the access side of an outdoor transformer installation.
- (4) Despite 8.0(3), an *Encroachment Permit* must be obtained from the *City* prior to creating any of the following *Encroachments*:
- (a) any object that is located on *Private Property* and projects over *Public Lands* at a height of 30 centimetres or more above *Grade*, and is not a tree or plant;
  - (b) any *Encroachment* that extends more than 20 centimetres below *Grade*;
  - (c) other objects that the *City* deems to be a significant *Encroachment*, such as, but not limited to, below-*Grade* hydro installations, heated *Driveways*, and *Encroachments* related to commercial *Private Property*.
- (5) Any tree or vegetation located on *Private Property* that has branches or foliage that extends onto a *Sight Triangle* must have such branches or foliage trimmed back to the *Property Line* to a height of at least 1.8 metres above *Grade*, as measured at the curb, or 2.5 m if the branches or foliage are above a *Multi-Use Pathway*. Any trimming or pruning must comply with the terms of the *Tree Protection By-law*.
- (6) No *Fence* that encroaches onto the *Boulevard* shall:
- (a) exceed a height of 1.2 metres for that portion of the *Fence* erected in a residential front *Yard*, unless such *Yard* abuts a rear *Yard*, in which case the encroaching *Fence* may not exceed 2.0 metres;

- (b) exceed a height of 2.0 metres for that portion of the *Fence* located along a residential side *Yard* or rear *Yard*;
  - (c) exceed a height of 3.0 metres in a non-*Residential Zone*;
  - (d) otherwise contravene the height restriction in the *Fence By-law* or an exemption approved by that By-law; or
  - (e) enclose any *Public Infrastructure*.
- (7) Every *Fence* that encroaches onto the *Boulevard* shall meet the *Construction* and maintenance standards prescribed in *Fence By-law*.
- (8) Where there is an existing *Encroachment Agreement* or *Encroachment Permit* at the time this By-law is enacted, it shall be allowed to continue under the provisions of this By-law.
- (9) An *Owner* who holds an *Encroachment Agreement* or an *Encroachment Permit* shall:
- (a) if he or she is a residential *Owner*, file annually with the *City* a certificate of general liability insurance for the *Property* to which the *Encroachment* relates, that is satisfactory to the *Director of By-law and Compliance, Licensing and Permit Services*; or
  - (b) if he or she is a commercial *Owner*, file annually with the *City* a certificate of general liability insurance for the *Property* to which the *Encroachment* relates and showing the *City* as an additional insured, that is satisfactory to the *Director of By-law and Compliance, Licensing and Permit Services*.
- (10) Where the *Director of By-law and Compliance, Licensing and Permit Services* deems it appropriate, an *Encroachment Permit* may be registered against title to the *Applicant's Property* with the land registry office and all expenses in doing so shall be paid in advance by the *Owner* applying for the *Permit*.
- (11) The *Director of By-law and Compliance, Licensing and Permit Services*, in addition to the authority stated in section 5.0, shall have delegated authority to:

- (a) revise fees and charges dealing with *Encroachments* under *Fees and Charges By-law*;
  - (b) determine whether any *Encroachment Agreement* or *Encroachment Permit* expiring on a date after the date of enactment and passage of this By-law shall be renewed, extended, or amended; and
  - (c) impose mandatory mediation before taking a *Person* to court.
- (12) Nothing in this By-law, including the execution of an *Encroachment Permit* or *Encroachment Agreement*, creates a vested right in the *Owner* or in the *Occupant* of the *Private Property* to which an *Encroachment* is appurtenant, or in any other *Person*, and thus any *Encroachment* may be revoked in accordance with the provisions of this By-law or the conditions of an *Encroachment Permit* or *Encroachment Agreement* issued under this or a previous By-law. There shall be no adverse possession of the *Public Lands* on which the *Encroachment* is located.
- (13) If an *Owner* intends to permanently discontinue an *Encroachment*, he or she shall notify the *Director of By-law and Compliance, Licensing and Permit Services* in writing and the *Director of By-law and Compliance, Licensing and Permit Services* shall thereafter have an *Order* sent to the *Owner* advising of the *Owner's* obligation to remove the *Encroachment* and restore the *Public Lands* to their former condition at the *Owner's* expense, in accordance with section 10.0.
- (14) If the *Director of By-law and Compliance, Licensing and Permit Services* is of the opinion that a breach of the terms and conditions of an *Encroachment Permit* or an *Encroachment Agreement* has occurred, or that the term of the *Encroachment Permit* or *Agreement* has expired, and that the *Encroachment* should be discontinued, the *Director of By-law and Compliance, Licensing and Permit Services* may have an *Order* sent to the *Owner* to advise that he or she must remove the *Encroachment* and restore the *Public Lands* to their former condition at the *Owner's* expense, in accordance with section 10.0.
- (15) Where the *Owner* fails to comply with an *Order*, the *Encroachment* may be removed by the *City* and the *Public Lands* restored to their former condition at

the expense of the *Owner*, and such Expense to be recovered in the manner provided in section 13.0(1).

- (16) Where in the course of performing maintenance, repairs or any other *Public* works, the *Director of By-law and Compliance, Licensing and Permit Services* deems it appropriate to remove an *Encroachment*, the *Director of By-law and Compliance, Licensing and Permit Services* shall:
- (a) in the case of an *Encroachment* for which there is a valid *Encroachment Permit* or *Encroachment Agreement*, provide an *Order* advising of the work to be conducted and the approximate starting date for that work;
  - (b) in the case of any other *Encroachment*, remove the *Encroachment* to the extent necessary to conduct the *City* work;
  - (c) upon completion of the *City* work, be responsible only for returning the *Public Lands* back to their condition prior to the *Encroachment*.
- (17) Notwithstanding sub-section 8.0(16)(a), if the *Director of By-law and Compliance, Licensing and Permit Services* deems that an emergency exists or could likely occur, the *Director of By-law and Compliance, Licensing and Permit Services* may remove the *Encroachment* or take any other actions to prevent or mitigate the emergency, in which case the *City* shall be responsible only for returning the *Public Lands* to a standard acceptable to the *City*.
- (18) Where the *Owner* fails to maintain an *Encroachment* in accordance with the provisions of this By-law, an *Encroachment Permit* or *Encroachment Agreement*, the *Director of By-law and Compliance, Licensing and Permit Services* may send an *Order* to the *Owner* advising him or her of the deficiency resulting in non-compliance and of the period of time provided to the *Owner* to bring the *Encroachment* into compliance, in accordance with section 10.0.
- (19) Where the *Owner* fails to bring an *Encroachment* into compliance in accordance with the *Order*, the *City* may remove the *Encroachment* and restore the *Public Lands* to a standard acceptable to the *City*, at the *Owner's* expense and such expense is to be recovered in full in the manner provided in section 13.0(1).

- (20) Where the *City* becomes aware of an *Encroachment* that is not compliant with this By-law, the *City* may give the *Order* to the *Owner* of the *Private Property* to which it is connected to or beside, to remove the *Encroachment* and restore the *Public Lands* to their former condition at his or her expense.
- (21) Where an *Owner* does not comply with an *Order* given to him or her, the *City* may remove the *Encroachment* and bring the lands back to their former condition at the *Owner's* expense and such expense is to be recovered in full in the manner provided in section 13.0(1).
- (22) Any material or structure forming part of or attached to the *Encroachment* removed by the *City* may, at the discretion of the *Director of By-law and Compliance, Licensing and Permit Services*, be relocated onto *Public Lands* without compensation to the *Owner*, may be brought to the *Owner's Private Property*, or may be stored for thirty (30) days at the *Owner's* expense, with such Expense to be recovered in full in a manner provided in section 13.0(1).
- (23) Any items stored and not claimed by the *Owner* within thirty (30) days, shall be disposed of by the *City* in such manner as it deems appropriate, without any compensation to the *Owner*.

## **9.0 Snow Clearing**

- (1) The *Owner* of any *Property* shall:
- (a) maintain the sidewalk adjacent to his or her *Property* clear of snow and ice; and
  - (b) cover any slippery area with sand, salt or other deicing substance of the equivalent or greater efficacy, if the condition of such sidewalk remains slippery after the removal of the snow and ice.
- (2) No *Owner* shall place, or cause, *Permit* or allow to be placed, snow or ice from his or her *Property* or from the *Boulevard* directly adjacent to his or her *Property*, by any means, onto a *Highway*.
- (3) Where the *City* performs the activities referred to in section 9.0(1) at its expense, such as clearing snow at buildings abutting sidewalks on main streets, along

transit routes, and in school zones, the *Owner* of a *Property* is not required to perform these activities unless otherwise advised by the *City*.

## **10.0 Orders and Enforcement**

- (1) Any *Person* who contravenes any provision of this by-law or fails to comply with an *Order* issued under this by-law is guilty of an offence.
- (2) During an investigation, the *Enforcement Officer* must display or produce on demand, their identification.
- (3) An *Enforcement Officer* who finds a contravention of this By-law may give a written *Order* to the *Owner* of the *Property* requiring compliance with this By-law and/or to clear the *Road Allowance* obstruction and/or do work to correct the contravention of this By-law within the time period specified in the *Order*.
- (4) The *Order* in 10.0(3) may be served in *Person* to whom it is directed or sent by registered mail to the last known address of that *Person*, in which case it shall be deemed to have been given on the fifth day after it is mailed.
- (5) If there is evidence that the *Person* in possession of the *Property* is not the *Property Owner*, the *Order* in 10.0(3) shall be served on both the *Property Owner* and the *Occupant*.
- (6) If the address of the *Owner* is unknown, or the *City* is unable to serve the *Owner* or *Occupant* under section 10.0(4), a placard stating the terms of the *Order* in 10.0(3) shall be placed in a conspicuous place on the *Property* and shall be deemed to be sufficient notice to the *Owner*.
- (7) If the *Order* in 10.0(3) has not been complied with within the required timeframe, the *City*, or any of its authorized agents, may perform the work described in the *Order*.
- (8) No *Person* shall hinder or obstruct or attempt to hinder or obstruct the *City* or its *Enforcement Officers* from carrying out any powers or duties under this By-law.

## **11.0 Fines**

- (1) Every person who contravenes any provision of this bylaw is guilty of an offence and upon conviction is liable to a fine as provided for by the *Provincial Offences Act*.
- (2) Pursuant to Section 429 of the *Municipal Act*, every *Person* who is guilty of an offence under this by-law shall be subject to the following fines:
  - (a) a minimum fine shall not be less than \$500 and a maximum fine shall not exceed \$100,000;
  - (b) in the case of a continuing offence, for each day or part of a day that the offence continues, a minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$10,000, however, the total of all of the daily fines for the offence is not limited to \$100,000; and
  - (c) in the case of a multiple offence, for each offence included in the multiple offence, a minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$10,000, however, the total of all fines for each included offence is not limited to \$100,000.
- (3) If there is a contravention of any provision of this by-law, and the contravention has not been corrected, the contravention of the provision shall be deemed to be a continuing offence for each day or part of a day that the contravention remains uncorrected.
- (4) If an *Order* has been issued under this by-law, and the *Order* has not been complied with, the contravention of the *Order*, shall be deemed to be a continuing offence for each day or part of a day that the *Order* is not complied with.

## **12.0 Administrative Monetary Penalties**

- (1) Instead of laying a charge under the *Provincial Offences Act* for a contravention of this by-law or an *Order* issued under this by-law, an *Enforcement Officer* may issue an administrative monetary penalty to the *Person* who has contravened this By-law or an *Order* issued under this by-law.
- (2) If a *Person* is required to pay an administrative monetary penalty under subsection 12.0(1) in respect of a contravention of this by-law or an *Order*, the

*Person* shall not be charged with an offence in respect of the same contravention.

- (3) The amount of the administrative monetary penalty for a contravention of a provision of this by-law or an *Order* is \$500.
- (4) A *Person* who is issued an administrative monetary penalty shall be subject to the procedures provided for in the *Administrative Monetary Penalties By-law*.
- (5) If an *Order* has been issued under this By-law and the *Order* has not been complied with, the contravention of said *Order* shall be deemed to be continuing offences for each day or part of a day that the *Order* is not complied with, that the *Person* and/or *Owner* shall be subject to a penalty of \$500.
- (6) An administrative penalty imposed by the *City* under this by-law constitutes a debt of the *Person* to the municipality and if not paid by the *Person*, the *Treasurer* may add the administrative penalty to the tax roll and collect it in the same manner as municipal taxes.

### **13.0 Cost Recovery**

- (1) Costs incurred by the *City* in doing the work required in the *Order* in 10.0(3) may be recovered by action or by adding the costs to the tax roll and collecting them in the same manner as taxes.

### **14.0 Severability**

- (1) If any provision of this By-law or the application thereof to any person or circumstance is held to be invalid by a court of competent jurisdiction, the invalidity does not affect other provisions or applications of the By-law which can be given effect without the invalid provision or application, and to this end the provisions of this By-law are severable.

### **15.0 Conflict with Other City By-laws**

- (1) Where there is a conflict or contradiction between this By-law and any other by-law of the *City*, the provisions establishing the more restrictive standard shall prevail.

## **16.0 Designated By-law**

- (1) Schedule 1 of the *Administrative Monetary Penalties By-law* is hereby amended by including this By-law as a *Designated By-law*.

## **17.0 Repeal of Other By-laws**

- (1) This By-law repeals: the Encroachment By-law 034-2017; the Newspaper Box By-law 372-2004, and its amending by-laws 207-2015, 196-2016; the Road Occupancy By-law 294-94; the Roadside Sales By-law 125-98; and, the Snow Clearing By-law 227-2022.

## **18.0 Transition**

- (1) Notwithstanding the repeal of by-laws 034-2017, 372-2004, 207-2015, 196-2016, 294-94, 125-98, 227-2022, those by-laws shall continue to apply to any acts, omissions, or occurrences, and to any offences that took place prior to this by-law coming into effect.

## **19.0 Force and Effect**

- (1) This by-law shall come into force and effect upon the date it is passed by Council.

Voted in favor of by City of Vaughan Council this 25<sup>th</sup> day of June, 2024.

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Steven Del Duca, Mayor

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Todd Coles, City Clerk

Authorized by Item No. 20 of Report No. 25 of the Committee of the Whole.  
Report adopted by Vaughan City Council on June 25, 2024.  
City Council voted in favour of this by-law on June 25, 2024.  
Approved by Mayoral Decision MDC 008-2024 dated June 25, 2024.  
**Effective Date of By-Law: June 25, 2024**