

*THE CITY OF VAUGHAN*

***BY-LAW***

**BY-LAW NUMBER XXX-2024**

**A By-law to prohibit Nuisance Demonstrations within one hundred metres of Vulnerable Social Infrastructure.**

**WHEREAS** section 8(1) of the *Municipal Act, 2001* S.O. 2001, c. 25 ("*Municipal Act*") provides that the powers of a municipality under the statute be interpreted broadly so as to confer broad authority on municipalities to enable municipalities to govern their affairs, as they consider appropriate, and enhance their ability to respond to municipal issues;

**AND WHEREAS** section 11(2)6. of the *Municipal Act* provides for a municipality to pass by-laws respecting the health, safety and well-being of *Persons*;

**AND WHEREAS** section 35 of the *Municipal Act* provides that a municipality may pass by-laws removing or restricting the common law right of passage by the public over a highway and the common law right of access to the highway;

**AND WHEREAS** section 102.1 of the *Municipal Act* provides that a municipality may require a person to pay an Administrative Monetary Penalty if the municipality is satisfied that the person has failed to comply with any by-laws respecting the parking, standing or stopping of vehicles;

**AND WHEREAS** section 128(1) of the *Municipal Act* provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances;

**AND WHEREAS** section 128(2) of the *Municipal Act* provides that the opinion of council under section 128(1), if arrived at in good faith, is not subject to review by any court;

**AND WHEREAS** section 426 of the *Municipal Act* provides that no person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under a by-law passed under the *Municipal Act*;

**AND WHEREAS** section 429 of the *Municipal Act* provides for a municipality to establish a system of fines for offences under a by-law of the municipality passed under the *Municipal Act*;

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

**AND WHEREAS** section 444 of the *Municipal Act* provides for a municipality that is satisfied that a contravention of a by-law of the municipality passed under the *Municipal Act* has occurred to make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity;

**AND WHEREAS** Council recognizes the fundamental right of freedom of expression for people to protest and demonstrate peacefully and further recognizes that such expression is an important element of democratic society;

**AND WHEREAS** Council also recognizes the need to reasonably and responsibly balance such rights against the health, safety and well-being of members of its communities;

**AND WHEREAS** Council recognizes that behaviours such as intimidation, inciting hatred, violence, intolerance or discrimination may have negative effects on the health, safety and well-being of its citizens;

**AND WHEREAS** Council deems certain social infrastructure to be especially vulnerable to public *Nuisance Demonstrations*, and further deems it necessary for such social infrastructure to have protection from such *Nuisance Demonstrations* in order to protect the well-being of users of the *Vulnerable Social Infrastructure*;

**AND WHEREAS** Council, in good faith, and in accordance with section 128 of the *Municipal Act*, has established what constitutes or could become a *Nuisance Demonstration*, as set out hereunder;

**AND WHEREAS** nothing in this By-law is intended to prevent peaceful protests or demonstrations, including those that occur as part of a labour union strike;

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

## 1.0 Short Title

- (1) This By-law shall be known and cited as the “Protecting Vulnerable Social Infrastructure By-law”.

## 2.0 Applicability and Scope

- (1) The provisions of this By-law apply to all properties, or parts thereof, that are located within one hundred (100) metres of *Vulnerable Social Infrastructure*.

## 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 section 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**” means the Administrative Monetary Penalties By-law 063-2019, as amended or its successor;

“**City**” means The Corporation of the City of Vaughan, or the area within the jurisdiction of The Corporation of the City of Vaughan, as the context requires;

“**Childcare Centre**” means a daycare facility licensed under the *Child Care and Early Years Act, 2014*, S.O. 2014, c. 11, Sched. 1 and its regulations;

“**Congregate Care Facility**” means a Long Term Care Facility, Retirement Residence, Supportive Living Facility, and Independent Living Facility, as these terms are defined in the *City’s Comprehensive Zoning By-law 1-2021*;

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

**“Enforcement Officer”** means a *Person* appointed by *Council* as a Municipal Law Enforcement Officer, pursuant to section 15.2 of the *Police Services Act*, R.S.O. 1990, c. P. 15, to enforce the provisions of this By-law or a sworn member of York Regional Police, Ontario Provincial Police, Royal Canadian Mounted Police, or any other *Person* so authorized;

**“Hospital”** means a hospital as defined under the *Public Hospitals Act*, R.S.O. 1990, c. P.40 and its regulations;

**“Nuisance Demonstration”** means one or more *Persons*, publicly and in person, protesting against something or expressing views on any issue, in any manner, whether it is intended or not, that is likely, on an objective standard, to cause a reasonable *Person* to be intimidated, meaning that they are either concerned for their safety or security, or they are unable to access *Vulnerable Social Infrastructure*. For greater certainty, intimidation can be caused by, but not only by, actions or expressions that incite hatred, violence, intolerance or discrimination.

**“Order”** means a written or oral direction given by an *Enforcement Officer*, to discontinue an activity, and that is in accordance with section 444 of the *Municipal Act*,

**“Person”** means a natural individual or any other legal entity, such as a corporation, as required by context;

**“Place of Worship”** has the same meaning as set out in *City’s* Comprehensive Zoning By-law 1-2021, being one or more buildings used for the gathering of a religious or faith-based organization for spiritual purposes.

**“School”** means a school as defined in the *Education Act*, R.S.O. 1990, c. E.2 and its regulations;

**“Vulnerable Social Infrastructure”** means a *Childcare Centre*, a *Congregate Care Facility*, a *Hospital*, a *School*, or a *Place of Worship*.

#### **4.0 Nuisance Demonstrations Prohibited**

- (1) No *Person* shall organize or participate in a *Nuisance Demonstration* within one hundred (100) metres of the property line of any *Vulnerable Social*

*Infrastructure.*

- (2) For greater certainty,
  - (a) section 4.0(1) is not intended to prohibit peaceful gatherings, protests or demonstrations, including any such activities that occur as part of a labour union strike;
  - (b) a *Nuisance Demonstration* is a public nuisance pursuant to section 128 of the *Municipal Act*.

## **5.0 Enforcement Powers**

- (1) An *Enforcement Officer* may enter on land, premises, or buildings at any reasonable time for the purpose of carrying out an inspection to determine compliance with:
  - (a) a provision of this By-law or any other by-law;
  - (b) an *Order* issued under this By-law or any other by-law.
- (2) An *Enforcement Officer* who finds a contravention of this By-law may give an *Order* to the *Person* who has contravened this By-law.
- (3) In accordance with the *Municipal Act*, for the purposes of an inspection pursuant to section 5.0(1) of this By-law, an *Enforcement Officer* may:
  - (a) require the production for inspection of documents or things relevant to the inspection;
  - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
  - (c) require information from any *Person* concerning a matter related to the inspection; and
  - (d) alone or in conjunction with a *Person* possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
- (4) For greater certainty, Part 5.0 authorizes an *Enforcement Officer* to require individuals to provide their name, address and identification, and the *Enforcement Officer* is permitted to use that information in the course of the investigation and to enforce this By-law.

- (5) No *Person* shall hinder or obstruct an *Enforcement Officer* from exercising duties under this By-law.
- (6) The Deputy City Manager, Community Services, or designate, is authorized to order the closure of any highway, including roadway, boulevard, sidewalk, trail or pathway, the closure of any public place, including facility, park, or parking lot, and/or redirect vehicular or pedestrian traffic in any way, including the placing of barricades, where necessary to ensure the health, safety, and well-being of citizens during or in anticipation of any *Nuisance Demonstration*.

## **6.0 Fines**

- (1) Every *Person* who is guilty of an offence under this By-law is subject a fine under the *Municipal Act*, such that:
  - (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 be less than \$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.

## **7.0 Administrative Monetary Penalties**

- (1) Instead of issuing a fine under the *Municipal Act* for an offence of a By-law, an *Enforcement Officer* may issue an administrative monetary penalty to the *Person* who has contravened the By-law, in accordance with the *Administrative Monetary Penalties By-law*.
- (2) If a *Person* is required to pay an administrative monetary penalty under section 7.0(1), no fine shall be laid against that same *Person* for the same violation.
- (3) The amount of the administrative monetary penalty for a breach under this By-law is \$750.
- (4) Every *Person* who commits an offence or obstructs an *Enforcement Officer* or authorized agent of the *City* who is in the course of enforcing this By-law or conducting an investigation to do same, is subject to an administrative

monetary penalty on each subsequent day in which the offence continues.

- (5) For greater clarity, the refusal to provide identification when requested to do so by an *Enforcement Officer* is considered obstruction, in accordance with section 426 of the *Municipal Act*, and is an offence under section 7.0(4) of this By-law.
- (6) If an *Order* has been issued under this By-law and the *Order* has not been complied with, the contravention of such *Order* shall be deemed to be a continuing offence for each day, or part of a day, that the *Order* is not complied with, and the *Person* shall be subject to a penalty of \$1,500 for each day or part of a day the offence continues.
- (7) A *Person* who is issued an administrative monetary penalty shall be subject to the procedures provided for in the *Administrative Monetary Penalties By-law*, including the right to request a review of the matter in accordance with the provisions of that By-law.

#### **8.0 Cost Recovery and Unpaid Fines and Penalties**

- (1) The *City's* Treasurer may add any unpaid fine or administrative monetary penalty to the tax roll for any property in the *City* of which all of the owners are responsible for paying a fine or administrative monetary penalty, and may collect it in the same manner as municipal taxes.

#### **9.0 Severability**

- (1) Where a court of competent jurisdiction declares any provision of this By-law to be invalid, or to be not in force, or without effect, it is the intention of the Council in enacting this By-law that the remainder of this By-law shall continue to be in force and applied and enforced in accordance with its terms to the fullest extent possible according to law.

#### **10.0 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.

**11.0 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*.

**12.0 Force and Effect**

(1) This By-law shall come into force and effect on the date enacted by Council.

Voted in favour 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