

**THE CORPORATION OF THE CITY OF KENORA**

**BY-LAW NUMBER 95 - 2003**

**Being a By-law to Regulate the Fortification  
of Land and to Prohibit Excessive  
Fortification of Land and to Prohibit the  
Application of Excessive Protective  
Elements to Land within the City of Kenora**

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WHEREAS subsection 133(1) of the Municipal Act, 2001, provides that:  
a municipality that is responsible for the enforcement of the Building  
Code Act, 1992 may,

- (a) regulate in respect of the fortification of and protective elements applied to land in relation to the use of the land; and
- (b) prohibit the excessive fortification of land or excessive protective elements being applied to land in relation to the use of the land.

AND WHEREAS subsection 133(3) of the said Act provides that:

a by-law under the said section,

- (a) may exempt land or classes of land, on such conditions as may be specified in the by-law;
- (b) may require the owner of land, at the owner's expense, to perform remedial work in respect of the land so that it is in conformity with the by-law;
- (c) may require remedial work under clause (b) to be done even though the fortifications or protective elements to which the by-law applies were present on the land before the by-law came into force.

AND WHEREAS it is in the public interest to enact regulations pursuant to Section 133 of the Municipal Act, 2001 in respect of the fortification of, and protective elements applied to, land in relation to its use and to prohibit the excessive fortification or excessive application of protective elements in relation to such use;

AND WHEREAS access to, and egress from land or buildings may be required by law enforcement officials in the lawful execution of their duties and by emergency services personnel in the event of fire or other emergencies;

AND WHEREAS the fortification of land or the application of protective elements to land may hinder or prevent law enforcement officials and emergency services personnel, acting in the lawful course of their duties and in response to emergency situations, from gaining access to and egress from land;

AND WHEREAS the fortification of land or the application of protective elements to land is likely to pose a serious risk to law enforcement officials and emergency services personnel; and to the occupants of land whose ability to escape an emergency situation is or may be hindered or prevented;

AND WHEREAS the fortification of land or the application of protective elements to land is likely to pose a serious threat to the safety and integrity of neighbouring land and to the owners and occupiers of neighbouring lands by restricting, limiting or preventing law enforcement personnel and emergency services personnel from responding to emergency situations effectively and in a timely manner;

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE CITY OF KENORA ENACTS AS FOLLOWS:

#### SHORT TITLE

1. This By-law may be cited as the "Fortification of Land By-law".

#### DEFINITIONS AND INTERPRETATION

2. In this By-law,
  - (a) "apply" means the erection, installation, extension or material alteration or repair of, or application to, land and includes construct, and "application" has a corresponding meaning;
  - (b) "Building Official" means the officer appointed by Council as the Chief Building Official pursuant the Building Code Act, S.O. 1992, c. 23, as amended and includes a Building Inspector appointed as aforesaid;
  - (c) "Corporation" means The Corporation of the City of Kenora;
  - (d) "construct" means to do anything in the erection, installation, extension or material alteration or repair of a building or structure and includes the installation of a building unit fabricated or moved from elsewhere and "construction" has a corresponding meaning;
  - (e) "Council" means the council of the Corporation;
  - (f) "emergency services personnel" means any individual employed by a Police Service, Fire Service (including volunteer firefighters), or Ambulance Service in Ontario and includes any person who is directed by emergency services personnel to do or to refrain from doing anything and who acts on such directions;
  - (g) "excessive fortification" includes the application of devices, barriers or materials in a manner intended, designed or likely to hinder, obstruct or prevent access to or from land or to resist attacks or assaults against the land and includes but is not limited to:
    - i) the application of steel plates, steel bars, bullet-proof shutters or heavy gauge wire mesh to window and other openings on any

- ii) building or structure on land excepting only basement windows or openings;
- iii) the application of concrete block, brick, or other masonry or similar product to partially or completely obstruct or seal any doorway, window, or other exterior entrance or means of egress to land;
- iv) the application of steel sheeting or plates or other similar products to the interior or exterior walls of land so as to reinforce walls or create a secondary wall providing protection against firearms, artillery, explosives, vehicle contact, shock, or other forces;
- v) the application of laminated glass or any other form of break resistant or break-proof or bullet resistant or bullet-proof material to windows or doors;
- vi) the application of armour plated or reinforced doors (exterior or interior) designed to resist against impact of firearms, artillery, explosives, battering rams, shock, vehicle contact or other forces;
- vii) the construction of pillars, cones, or barriers made of concrete, steel, or any other material that is designed to obstruct, hinder, restrict, or deny access onto any land by conventional means of access or modes of transportation;
- viii) the construction of an observation tower designed to enable the visual observation of surrounding areas beyond the perimeter of the land whether the tower is occupied by an individual or a surveillance camera or like equipment;

and "excessively fortify" has a corresponding meaning;

- (h) "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;
- (i) "Municipal Law Enforcement Officer" includes 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 from time to time;
- (j) "person" includes a natural person, a partnership, an association or club, and a corporation, and the legal representatives thereof;
- (k) "protective elements" means devices, objects, material components, or any contrivance intended, designed or likely to control, hinder, restrict or deny access to or from land or to resist attacks or assaults against the land and includes but is not limited to:

- i) the application of perimeter warning devices such as "laser eyes" or other types of advance warning systems whether electronic or otherwise, designed to forewarn of the entry on land or 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 electrical fencing or any similar perimeter barrier, 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 by entry or encroachment on land, whether intended or designed to, or by application in such manner as is likely to, cause damage, death or injury;
- iii) the application of visual surveillance equipment, including but not limited to video cameras, "night vision" systems, and electronic listening devices capable of permitting either stationary or scanned viewing or listening, beyond the perimeter of the land, by an operator or viewer of or listener to that equipment.

#### GENERAL PROHIBITIONS

3. No person shall:

- (a) excessively fortify any land;
- (b) apply excessive protective elements to land;
- (c) fail to perform remedial work as required by this By-law.

#### EXEMPTIONS

4. Section 3 above does not apply to:

- (a) financial institutions as identified and listed in Schedules to the Bank Act, S.C. 1991, c. 46 as amended from time to time;
- (b) detention centres zoned for such use and otherwise permitted by law;
- (c) lands, wherever situated, owned or occupied by the Ontario Provincial Police or an Ontario Municipal Police Service;
- (d) lands, wherever situated, owned or occupied by the Royal Canadian Mounted Police;
- (e) lands, wherever situated, owned or occupied by the Federal Department of National Defense;

- (f) commercial, business, industrial, farming or institutional establishments where the nature of the undertaking necessitates, for bona fide and lawful reasons, the application of particular elements of fortification or protection and where such use is permitted by the Zoning By-law of the Corporation and is otherwise lawful, but only to the extent necessary, having consideration for the nature of the undertaking.
5. Section 3 does not operate to prohibit;
- (a) the use or application of commercially marketed household security devices designed and applied to provide reasonable protection from intrusion, theft or other criminal or unauthorized activity;
  - (b) the use or application of protective elements such as "laser eye" or other advance warning devices on windows or doors of a dwelling house for the purpose of providing a warning to the occupants of that dwelling house
  - (c) or to dispatch emergency services personnel after an actual intrusion or entry into a dwelling house has occurred;
  - (d) common household alterations or renovations where the location or style of a door or window may be altered for purely aesthetic reasons and which meet Ontario Building Code and Ontario Fire Code requirements and which have received any permit required to complete such alteration or renovation.

#### ADMINISTRATION AND ENFORCEMENT

6. (1) This by-law shall apply to all property within the limits of the municipality.
- (2) The owner of land shall, at the owner's expense, perform such remedial work in respect of the land so that it is in conformity with this By-law.
  - (3) The remedial work referred to in subsection 6(2) shall be done even though the fortification or protective elements to which this By-law applies were present on the land before this By-law came into effect.
  - (4) Any Municipal Law Enforcement Officer may issue to the owner of land an Order pursuant to Section 133(7) of the Municipal Act, 2001 if in the opinion of the officer there is a violation of this By-law.
  - (5) If the work required by an Order issued pursuant to Section 133(7) of the Municipal Act, 2001 is not done in compliance with the Order within the period it specifies, the Corporation may have the work done at the expense of the owner.
  - (6) The Corporation shall not be liable for any cost incurred by the owner of land in the compliance or enforcement of the provisions of this By-law.

PENALTY

7. Every person who contravenes any of the provisions of this By-law is guilty of an offence and upon conviction is liable to a fine or penalty as provided in the Provincial Offences Act.

SEVERABILITY

8. Should any section, subsection, clause or provision of this By-law be declared by a court of competent jurisdiction to be invalid the same shall not effect the validity of the By-law as a whole or any part thereof, other than the part so declared to be invalid.

ENACTMENT

9. This By-law comes into force and takes effect on the final passage hereof.

By-law read a FIRST & SECOND TIME this 16 day of June 2003  
By-law read a THIRD & FINAL TIME this 16 day of June 2003

THE CORPORATION OF THE CITY OF KENORA:

per: \_\_\_\_\_ MAYOR  
David Canfield

per: \_\_\_\_\_ CLERK  
Joanne L. McMillin