

The Corporation of the City of Pembroke

By-law Number 2025-08

**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 Pembroke**

**Whereas** pursuant to Section 133 of the *Municipal Act*, S.O. 2001, c.25, as amended, authorizes a municipality that is responsible for the enforcement of the Building Code Act, 1992, may regulate in respect of the fortification of and protective elements applied to land in relation to the use of the land; and prohibit the excessive fortification of land or excessive protective elements being applied to land in relation to the use of the land; and

**Whereas** Section 11(2) of the Municipal Act, S.O. 2001, c.25, as amended, states a lower-tier municipality and an upper-tier municipality may pass by-laws related to the health, safety and well-being of persons; and

**Whereas** the fortification of land or the application of protective elements to land is likely to pose a serious health, safety and welfare risk to law enforcement officials and/or emergency services personnel when confronted with such land when acting in the course of their lawful duties or in response to emergency situations and as well 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 adjoining and abutting land and as well the owners and occupiers of those lands by restricting, limiting or preventing law enforcement personnel and/or emergency services personnel from responding to emergency situations effectively and in a timely manner; and

**Whereas** Section 10(2) of the Municipal Act, S.O. 2001, c.25, as amended, states that a single-tier municipality may pass by-laws which includes the health, safety, and well-being of persons; and

**Whereas** the Council of the Corporation of the City of Pembroke considers the enactment of a fortification by-law to be a matter concerning the health, safety, and welfare of the inhabitants of the municipality.

**Now Therefore** the Municipal Council of the Corporation of the City of Pembroke enacts as follows:

**Section 1 – Definitions**

The following words and phrases, when used in this by-law shall, for the purpose of this by-law have the meaning respectively ascribed to them:

1. **Apply or Application** means the erection, installation, extension or material alteration or repair of or application to land and includes to construct.
2. **Booby trap** is a device or setup that is intended to kill, harm or surprise a human or another animal. It is triggered by the presence or actions of the victim and sometimes has some form of bait designed to lure the victim towards it. The trap may be set to act upon trespassers that enter restricted areas, and it can be triggered when the victim performs an action (e.g., opening a door, picking something up, or switching something on). It can also be triggered by vehicles driving along a road, as in the case of improvised explosive devices (IEDs).
3. **Building Code** means the Ontario Building Code Act, S.O. 1992, c. 23, or any successor code.

4. **Chief Administrative Officer** means the officer or his or her designate appointed by Council as the Chief Administrative Officer for the City of Pembroke.
5. **Chief Building Official** means the officer or his or her designate appointed by Council as the Chief Building Official pursuant to Section 3 of the Building Code Act, S.O. 1992, c.23, as amended, and includes a Building Inspector.
6. **City** means the Corporation of the City of Pembroke.
7. **Construct** means to do anything in the erection, installation, extension or material alteration or repair of a building and includes the installation of a building unit fabricated or moved from elsewhere and "construction" has a corresponding meaning.
8. **Council** means the municipal council for the City of Pembroke.
9. **Emergency Services Personnel** means any individual employed by a Police Service, Fire Service (including volunteer Fire Fighters), or Ambulance Service in Ontario who is acting in accordance with the obligations imposed upon them (whether by statutory or common law duty) by their position and includes any person who is directed by an emergency services personnel to do, or refrain from doing, anything and who acts on those directions.
10. **Excessive Fortification and Excessively Fortify** means the use, maintenance or construction of devices, barriers or materials in a manner designed to hinder, obstruct or prohibit access to or from land or which have the effect of hindering, obstruction or prohibiting access to or from land and which include but is not limited to:
  - a) The application of steel plates, steel bars, bullet-proof shutters or heavy gauge wire mesh to window and other openings on any and all levels of any structures on land with the sole exclusion of basement windows or openings;
  - b) 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 egress to land;
  - c) The application of steel sheeting or plates or other similar products to the interior or exterior walls of land such as to replace or reinforce walls or create a secondary wall in a manner to protect against firearms, artillery, explosives, vehicle impact and the like;
  - d) The application of laminated glass or any other form of break resistant/proof or bullet resistant/proof material or glass to windows or doors;
  - e) Armour plated or reinforced doors (exterior or interior) designed to resist against impact of firearms, artillery, explosives, battering rams, or vehicle impact;
  - f) The construction of pillars, cones or barriers out of concrete, steel, or any other solid building material that are designed to (or which is likely to) obstruct, hinder, restrict or prevent access onto any land by conventional means of access or modes of transportation so as to prevent reasonable access by Emergency Services Personnel;
  - g) The construction of an observation tower designed to enable the visual observation of surrounding areas beyond the perimeter of the land actually owned or leased/rented by the occupant whether the tower is occupied by an individual or a surveillance camera or like equipment.
  - h) The setup of a booby trap designed to (or which is likely to) obstruct, hinder, restrict or prevent access onto any land by conventional means of access or modes of transportation to as to prevent reasonable access by Emergency Services Personnel.

11. **Excessive Protective Elements** means the use, maintenance or construction of devices, objects, material components, or any contrivance designed for surveillance or to control, hinder, restrict or deny access to or from land or which have the effect of controlling, hindering, restricting or denying access to or from the land and includes but is not limited to:

- a) The application of electrified fencing or any similar perimeter barrier including hidden 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 on encroachment to land whether designed to, or by application in such manner is, likely to cause death or serious injury;
- b) The construction of an observation tower designed to enable the visual observation of surrounding areas beyond the perimeter of the land actually owned or leased/rented by the occupant whether the tower is occupied by an individual or a surveillance camera or like equipment.

12. **Fire Chief** means the chief of the City of Pembroke's Fire Department or his or her deputy or designate.

13. **Fire Code** means Ontario Regulation 213/07, as amended, and as passed under the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4 or any successor code.

14. **Fortification or Fortify** means the construction of devices, barriers or materials in a manner designed to hinder, obstruct or prohibit access to or from land or which have the effect of hindering, obstructing or prohibiting access to or from the land and includes excessive fortification.

15. **Land** includes buildings, mobile homes, mobile buildings, mobile structures, outbuildings, fences, erections, physical barriers and any other structures on the land or in any structures on the land.

16. **Occupier** means a person residing on or in immediate possession of land, or of a part of land where relevant to notice of entry to the land or part.

17. **Officer** means a Chief Building Official, Fire Chief or a Property Standards Officer appointed under any City By-law, or Police Services or any other person assigned or appointed by the Chief Administrative Officer to administer or enforce this By-law, includes a person employed by the City whose duties are to enforce the By-law, and further includes a police officer.

18. **Owner** means a person who has registered title to the land, and includes the heirs, executors, administrators or successors and assigns or other legal representative of such person.

19. **Person** means any natural person and includes a corporation, a partnership and the heirs, executors, administrators and assigns or other legal representative of a person.

20. **Police Officer** means an officer sworn or appointed as a member of any police service in Canada.

21. **Property Standards Officer** means an officer appointed pursuant to a by-law under Section 15.1 of the Building Code Act, 1992, who may, upon producing proper identification, enter upon any land at any reasonable time without a warrant for the purpose of inspecting the land to determine;

22. **Protective Elements** means devices, objects, material components, or any contrivance designed for surveillance or to control, hinder, restrict or deny access to or from land or which have the effect of controlling, hindering, restricting or denying access to or from the land and includes excessive protective elements.

## **Section 2 - General Prohibitions**

### **2.1 No person shall:**

- a) Excessively fortify any land or cause, permit or maintain the excessive fortification of land;
- b) Apply, use, cause, permit or maintain excessive protective elements to or on land;
- c) Hinder, obstruct or attempt to hinder or obstruct, an officer, police officer or other person exercising a power or carrying out a duty under this by-law, or any persons assisting such officers, including without limiting the generality of the foregoing any Emergency Services Personnel.

## **Section 3 – Exemptions**

### **3.1 Section 2(1) (a) and (b) above do not apply to:**

- (a) Financial institutions as identified and listed in Schedules I, II and III of the Bank Act, S.C. 1991, Chapter 46, as amended from time to time that is zoned for such use or otherwise permitted by law;
- (b) Detention Centres zoned for such use otherwise permitted by law;
- (c) Lands, wherever situated, owned or occupied by the Ontario Provincial Police or an Ontario Municipal Police Service in accordance with the Community Safety and Policing Act, 2019, S.O. 2019, c.1;
- (d) Lands, wherever situated, owned or occupied by any Federal Department or Agency of the Government of Canada;
- (e) Lands, wherever situated, owned or occupied by the Royal Canadian Mounted Police;
- (f) Lands owned and occupied by the Corporation of the City of Pembroke;
- (g) Other commercial, industrial, institutional establishments or courthouses where the use is made more secure by Excessive Fortification or Excessive Protective Elements and where such use is permitted in the Zoning By-law or is otherwise lawfully permitted.

## **Section 4 – Scope and Limitation of By-law**

### **4.1 Section 2(1)(a) and (b) does not apply to prohibit:**

- (a) The use or application of commercially marketed household security devices designed and applied to provide protection from theft or other criminal activity against the person or property of an individual and which do not meet the definition or are not employed so as to meet the definition of excessive protective elements;
- (b) The use of Protective Elements such as “laser eye” or other advanced warning devices on windows or doors of a dwelling house for the purpose of providing a warning to the occupants of that dwelling house or structure or to dispatch Emergency Services Personnel where an actual entry into a dwelling house has occurred;
- (c) Common household alterations or renovations where the location or style of a door or window may be altered and meets the Building Code and Fire Code requirements and have received any permit required to complete such alteration or renovation;
- (d) The securing of openings in vacant buildings, or the closing of fire or other accidental structural damage to buildings as required under the City’s Property Standards By-law, as amended or by an order issued under either the Fire Protection and Prevention Act or the Building Code Act.

## **Section 5 – Power of Entry**

5.1 An Officer or Police Services may, at any reasonable time, enter and inspect any land to determine whether this By-law, or an order under this By-law, is being complied with.

## **Section 6 – Orders**

6.1 Where an Officer or the Chief Building Official is satisfied that a contravention of this By-law has occurred, the officer may make an order requiring work to be done to correct the contravention and the order shall set out:

- a) The municipal address and the legal description of the land;
- b) Reasonable particulars of the contravention and the work to be done and the period which there must be compliance with the order;
- c) If the work required by an order is not completed within the specified period, an Officer or the Chief Building Official may, at any reasonable time, enter upon the land or may make arrangements for municipal employees or a contractor retained for that purpose, to enter upon the land to do the work;
- d) A notice stating that if the work is not done in compliance with the order within the period it specifies, work done may be at the expense of the owner.

6.2 If the work required by an order is not completed within the specified period, an Officer or the Chief Building Official may, at any reasonable time, enter upon the land or may make arrangements for municipal employees or a contractor retained for that purpose, to enter upon the land to do the work.

## **Section 7 –Failure to Comply and Cost Recovery**

7.1 Where a person defaults in complying with a direction, requirement or order under this By-law to do a matter or thing, the Chief Administrative Officer may cause an Officer or agent on behalf of the City, with such assistance from others as may be required, to enter the land on which the contravention occurred at any reasonable time, and to carry out such direction, requirement or order at the person's expense.

7.2 The City may recover the costs from the person directed, required or ordered to do a matter or thing under this section, by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

7.3 The amount of the City's costs incurred to the date payment is made in full, constitutes a lien upon the land, upon the registration of a notice of lien upon the land.

## **Section 8 - Penalty and Enforcement**

8.1 Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.

8.2(a) Every person or director or officer of a corporation shall comply with an order, direction or other requirement made under this By-law.

8.2(b) No person shall obstruct or attempt to obstruct an officer, or any person acting under an officer's instructions, in the lawful exercise of a power granted to him/her or them by this by-law.

8.3 All offences provided for in this by-law are designated as continuing offences as provided for in Subsection 429(2)(a) of the Municipal Act, 2001, S.O. 2001, c.25.

8.4 Any proceeding alleging an offence may be commenced pursuant to the Provincial Offences Act, or any successful legislation by:

- a) Filing a certificate of offence alleging the offence in the office of the court;

- b) Laying an information; or
- c) Any other means of commencing a proceeding that may be permitted in law from time to time by the Province of Ontario.

8.5 Where a proceeding is commenced by filing a certificate of offence alleging the offence in the office of the court, a person or corporation who is convicted of an offence is liable, for each day or part of a day that the offence continues, to the fine or penalties as set out in Schedule "A" of this by-law.

8.6 Where a proceeding is commenced by laying an information or any other means of commencing a proceeding that may be permitted in law from time to time by the Province of Ontario,

8.7 Any person who contravenes any provision of this By-law, or an officer or director of a corporation, who knowingly concurs in such a contravention by the corporation, is guilty of an offence and upon conviction is liable to a fine or penalty as follows:

- (a) for a first offence, a maximum of \$20,000;
- (b) for a second offence, a maximum of \$50,000;
- (c) for a third offence or subsequent offence, a maximum of \$100,000.

8.8 Any person who contravenes any order made under this by-law, or an officer or director of a corporation who knowingly concurs in such a contravention by the corporation, is guilty of a continuing offence and upon conviction is liable to a daily fine or penalty to a maximum of \$10,000 for each day or part of a day that the offence continues, and despite Section 11.1 the total of all the daily fines imposed for an offence is not limited by the maximums listed in Section 11.1.

8.9 For the purposes of this by-law, an offence is a subsequent offence if there has been a previous conviction under this, or any prior, Property Standards By-law.

### **Section 9- Conflict and Severability**

9.1 Subject to Section 12.2, where a provision of this By-law conflicts with the provision of any other By-law of the City or any applicable government regulation, the provision that establishes the higher standard to protect the health, safety and welfare of the general public shall prevail.

9.2 Notwithstanding Section 12.1, and despite Section 35 of the Building Code Act, 1992, if there is a conflict between the Building Code under the Building Code Act, 1992 and this By-law, the Building Code prevails.

9.3 Should a court of competent jurisdiction declare a part or whole of any provision of this By-law to be invalid or of no force and effect, the provision, or part, is deemed severable from this By-law and it is the intention of Council that the remainder survive and be applied and enforced in accordance with its terms to the extent possible under law.

### **Section 10 – Exemption Limited by Act of Law**

10.1 Any exemption authorized by this By-law in any manner shall, in no way be construed or interpreted as an exemption, limitation or excuse from a person's requirement to abide by and comply with any other Federal, Provincial or Municipal Law.

### **Section 11 - Enactment**

11.1 That By-law 2002-58 and any amendments thereto and any other by-law inconsistent with the provisions contained in this by-law are hereby repealed.

11.2 This By-law shall come into force and take effect upon the date of the final passing thereof.

Passed and enacted this 18<sup>th</sup> Day of February 2025



Ron Gervais

Mayor



Victoria Charbonneau

Clerk

**By-law Number 2025-08 – Schedule “A” – Set Fines**

**Prescribing Standards for the Regulation of the Fortification of Land  
Within the City of Pembroke  
Part 1 Provincial Offences Act**

<b>Item</b>	<b>Column 1 – Short Form Wording</b>	<b>Column 2 – Provision Creating or Defining Offence</b>	<b>Column 3 – Set Fine</b>
1	Fails to comply with an order, direction or other requirement	s. 8.2 (a)	\$300.00
2	Obstructs or Attempts to Obstruct an Officer	s. 8.2 (b)	\$300.00

Note: The penalty provision for the offences indicated above is Section 8 of City of Pembroke's By-law 2025-08 and Section 61 of the Provincial Offences Act, R.S.O. 1990, c. P.33.

Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.