

The Corporation of the Town of Aurora

By-law Number XXXX-24

Being a By-law to amend By-law Number 6096-18, as amended, to include Administrative Monetary Penalty provisions.

Whereas Section 434.1 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended (the "Municipal Act") authorizes municipalities to establish an administrative monetary penalty system requiring a person to pay an administrative penalty for a contravention of any designated by-law;

And whereas the Corporation of the Town of Aurora ("Town") passed By-law Number 6450-22 to establish administrative monetary penalties to assist the municipality with promoting compliance with its designated by-laws;

And whereas subsection 11(1) of the Municipal Act provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

And whereas subsection 11(2) of the Municipal Act provides that a municipality may pass by-laws respecting the health, safety, and well-being of persons;

And whereas subsection 11(3) of the Municipal Act provides that a municipality may pass by-laws respecting structures, including fences and signs;

And whereas section 7 of the *Building Code Act, 1992*, SO 1992, c 23, as amended, authorizes a municipal council to pass by-laws concerning the issuance of permits and related matters;

And whereas the Town has enacted By-law Number 6096-18 for the issuance of building permits and related matters;

And whereas the Council of Town considers it desirable to implement fencing requirements pursuant to the Municipal Act on sites subject to construction and demolition and to designate such provisions to be subject to the administrative monetary penalty system of the Town pursuant to the Municipal Act;

Now therefore the Council of The Corporation of the Town of Aurora hereby enacts as follows:

1. Section 1 of By-law Number 6096-18 be and is hereby amended by adding the following definition as paragraph (l.1):

"(l.1) "officer" means any individual designated or appointed by the Town to enforce this by-law, and includes an inspector, a Municipal Law Enforcement Officer, and any police officer;"

2. Section 22 of By-law Number 6096-18 be and is hereby deleted and replaced with the following:

"22. Fencing at Construction and Demolition Sites

- 22.1 The owner of any site on which construction or demolition is being undertaken shall secure the entirety of the site, or cause the site to be

secured, to protect the public from potential hazards of the construction or demolition which may impact the health, safety, or well-being of persons.

- 22.2 The owner of any site on which construction or demolition is being undertaken shall erect and maintain fencing, or cause the erection and maintenance of fencing, which encloses the entirety of the construction or demolition site and is in compliance with the requirements of this section 22 by-law.
- 22.3 Every fence required by this section 22 shall:
- (a) be erected to create a continuous barrier and be sufficient to deter unauthorized entry;
 - (b) be a minimum of 1.2 meters above grade at any height or higher as determined by the Chief Building Official from time to time;
 - (c) if constructed of plastic mesh, snow fencing, or other similar materials, be securely fastened to vertical posts not more than 2.4 meters apart with a minimum 11-gauge thickness cable at the top and bottom; and
 - (d) be maintained in the vertical plane and in good repair.
- 22.4 The provisions of this section 22 shall not be construed as to supersede any provisions of the Fence and Pool Enclosure By-Law or to relieve any person from the provisions or the requirements of the Fence and Pool Enclosure By-Law. In case of conflict between the provisions of this section 22 and the Fence and Pool Enclosure By-Law, the provision that establishes the highest standard to protect the health, safety, and welfare of the general public shall apply.
- 22.5 An officer, or any other individual authorized to enforce this by-law on behalf of the Town, may at any reasonable time enter upon any land for the purpose of carrying out an inspection to determine whether this section 22, or any direction or order under this section 22, is being complied with.
- 22.6 Where an inspection is conducted pursuant to this section 22, an officer or any other individual authorized to enforce this by-law on behalf of the Town, 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 and 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 purpose of the inspection.

- 22.7 This section 22 is established and implemented pursuant to and subject to the Municipal Act.”
3. Section 24 of By-law Number 6096-18 be and is hereby deleted and replaced with the following:

“24. Offences and Penalties

- 24.1 Every person who contravenes any provision of this by-law, except for section 22, is guilty of an offence and liable:

- (a) on a first conviction to a fine of not more than \$50,000; and
- (b) on any subsequent conviction, to a fine of not more than \$100,000.

Where the person convicted is a corporation, the maximum fines are \$100,000 on a first offence and \$200,000 for any subsequent conviction.

- 24.2 Every person who contravenes section 22 of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act*, RSO 1990, c P 33, as amended.
- 24.3 If a corporation has contravened section 22 of this by-law, every director and officer of the corporation who knowingly concurred in such a contravention is guilty of an offence.
- 24.4 Instead of laying a charge under the *Provincial Offences Act*, RSO 1990, c P 33, as amended, for a breach of any provision designated under the Administrative Penalty By-law, an individual authorized to enforce this by-law on behalf of The Corporation of the Town of Aurora may issue an administrative penalty to the person who has contravened this by-law.
- 24.5 Individuals authorized to enforce this by-law on behalf of The Corporation of the Town of Aurora have the discretion to either proceed by way of an administrative penalty or a charge laid under the *Provincial Offences Act*, RSO 1990, c P 33. If an administrative penalty is issued to a person for the breach, no charge shall be laid against that same person for the same breach.
- 24.6 The amount of the administrative penalty for a breach of a provision of this by-law, shall be as established pursuant to the Administrative Penalty By-law, and each day on which a contravention has not been corrected shall constitute a new and separate offence.
- 24.7 A person who is issued an administrative penalty shall be subject to the procedures as provided for in the Administrative Penalty By-law.”

Enacted by Town of Aurora Council this 23rd day of April, 2024.

Tom Mrakas, Mayor

Michael de Rond, Town Clerk