

THE CORPORATION OF THE TOWN OF OAKVILLE

BY-LAW NUMBER 2025-xxx

A by-law to protect safe access to vulnerable social infrastructure in the Town of Oakville

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;

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;

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;

WHEREAS subsection 63(1) of the *Municipal Act* provides that a by-law may prohibit or regulate the placing or standing of an object on or near a highway, and may provide for the removal and impounding or restraining and immobilizing any object placed or standing on or near a highway;

WHEREAS section 128 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 the opinion of council, if arrived at in good faith, is not subject to review by any court;

WHEREAS subsection 425(1) of the *Municipal Act* provides that a municipality may pass by-laws providing that a person who contravenes any by-law of the municipality passed under the Act is guilty of an offence;

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*;

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;

WHEREAS subsection 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 a person has failed to comply with a by-law of the municipality passed under the Municipal Act;

WHEREAS subsection 434.2(1) of the Municipal Act provides that an administrative penalty imposed by a municipality on a person constitutes a debt of the person to the municipality;

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;

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;

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;

WHEREAS Council recognizes that Specified Protests and Graphic Images within the vicinity of Vulnerable Social Infrastructure may have negative effects on the health, safety and well-being of its citizens;

WHEREAS Council deems certain social infrastructure within the community to be especially vulnerable to protests, and further deems it necessary for such social infrastructure to have protection from Specified Protests and Graphic Images to ensure the well-being of users of these Vulnerable Social Infrastructure;

WHEREAS Council deems it necessary to enact a by-law to protect safe access to Vulnerable Social Infrastructure;

WHEREAS Council, in good faith, and in accordance with section 128 of the Municipal Act, has established that a Specified Protest and Graphic Images as

defined in this By-law, and within the vicinity of Vulnerable Social Infrastructure, constitutes or could become a public nuisance;

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

COUNCIL ENACTS AS FOLLOWS:

1. Definitions

(1) In this By-law:

“Administrative Penalties for Non-Parking Violations and Orders By-law” means the Town’s By-law 2021-038, or successor by-laws;

“Council” means the Council of the Corporation of the Town of Oakville;

“Daycare” means a premises, including outdoor areas, where children are provided with temporary care and/or guidance for a continuous period not exceeding 24 hours and are licensed in accordance with the *Child Care and Early Years Act*;

“Graphic Image” means any unacceptable depiction and portrayal, whether intended or not, that, on an objective standard, a reasonable person would consider disturbing, undermines human dignity, or displays obvious indifference to, or offends the standards of public decency prevailing among a significant segment of the population, or likely to cause harm to a segment of the audience beyond mere repugnance, especially children or adolescents. For greater certainty, the definition of Graphic Image includes, but is not limited to, dismembered human beings and aborted and/or dismembered fetuses;

“Hospital” means any public or private institution under Provincial legislation established for the treatment of convalescent or chronically ill persons afflicted with sickness, disease or injury, that is approved under the applicable statute, and may include research and educational facilities;

“Library” means a premises for the collection of printed, electronic, and pictorial material for public use for the purposes of study, reference, and recreation, and which may include meeting rooms for community use, activity areas, cafeteria, and space for recreational uses;

“Officer” means any person authorized by the Town to enforce by-laws and includes Municipal Law Enforcement Officers, police officers, and provincial offences officers;

“Operational hours” means the posted hours of the Vulnerable Social Infrastructure;

“Penalty Notice” means a notice issued pursuant to the provisions of the Administrative Penalties for Non-Parking Violations and Orders Bylaw;

“Person” means an individual, business, firm, corporation, association, partnership, or any combination thereof;

“Place of Worship” means a premises used for the practice of religion and faith-based spiritual purposes wherein people assemble for religious worship, faith-based teaching, fellowship and community social outreach;

“Rates and Fees Schedule” means the Town’s current rates and fees schedule approved by Council as part of the annual budget approval process;

“School” means a premises, including outdoor areas, where academic instruction in a full range of the subjects of the elementary or secondary school courses of study is provided as well as college of applied arts and technology;

“Specified Protest” means:

- (a) advise or persuade, or attempt to advise or persuade, a person to refrain from accessing Vulnerable Social Infrastructure;
- (b) persistently request that a person refrain from accessing Vulnerable Social Infrastructure;
- (c) physically interfere with or attempt to physically interfere with a person accessing Vulnerable Social Infrastructure;
- (d) repeatedly approach, accompany or follow a person accessing Vulnerable Social Infrastructure; or
- (e) intimidate or attempt to intimidate a person or otherwise do or say anything that could reasonably be expected to cause concern for a person's physical or mental safety.

“Town” means The Corporation of the Town of Oakville or the geographic area of the Town of Oakville, as the context requires; and

“Vulnerable Social Infrastructure” means places of worship, hospitals, schools, daycares, and libraries.

2. Interpretation

- (1) This By-law is a designated by-law under the Administrative Penalties for Non-Parking Violations and Orders By-law.
- (2) The section headings used in this By-law are for convenient reference only and shall not form part of this By-law.

3. Applicability and Scope

- (1) The provisions of this By-law apply to all municipal properties, or parts thereof, within twenty (20) metres from the boundaries of the property on which Vulnerable Social Infrastructure is located.
- (2) In the event of any conflict, the regulations prescribed by any applicable federal or provincial law shall govern.

4. Specified Protest Prohibited

- (1) No person shall engage in a Specified Protest within twenty (20) metres of the property line of any Vulnerable Social Infrastructure during the following time period:
 - (a) commencing one hour before and ending one hour after operational hours, and
 - (b) commencing one hour before any scheduled event occurring outside of operational hours and ending one hour after the end of the event.
- (2) Where a Vulnerable Social Infrastructure is located in a building containing a complex of offices, stores or other facilities, the prohibition in subsections 4(1) apply to the entrances of the complex.
- (3) For greater certainty, a Specified Protest within the vicinity of Vulnerable Social Infrastructure is a public nuisance pursuant to section 128 of the Municipal Act.

5. Graphic Images Prohibited

- (1) No person shall display or carry a Graphic Image larger than 3.5 inches x 5 inches within 150 meters of the boundary of any Vulnerable Social Infrastructure.

- (2) Section 5(1) does not apply to the hospital which is governed by the *Safe Access to Abortion Services Act*, S.O. 2017, c. 19, Sched. 1 prohibiting the use any graphic means while in an access zone.
- (3) For greater certainty, Graphic Images within the vicinity of Vulnerable Social Infrastructure are a public nuisance pursuant to section 128 of the Municipal Act.

6. Exempt Activities

- (1) The provisions of this By-law are not intended to prohibit peaceful gatherings, protests or demonstrations, including any such activities that occur as part of lawful labour action, including picketing, informational pickets, or demonstrations directly related to collective bargaining, employment disputes, or other legally recognized labour activities, provided such activities comply with applicable provincial and federal labour relations legislation.

7. Notice of Violation

- (1) If an Officer determines that a Specified Protest is occurring or that a contravention of this By-law has taken place, the Officer shall notify the person involved, which may include:
 - (a) Information regarding the boundaries within which a Specified Protest and Graphic Images larger than 3.5 inches x 5 inches are prohibited;
 - (b) Notification that the conduct has been deemed a “Specified Protest” under this By-law;
 - (c) A request for the person to immediately cease the prohibited conduct or leave the area within which a Specified Protest is prohibited;
 - (d) Information regarding the consequences of failing to comply with the request, including potential penalties under this By-law.
- (2) A person will be given a reasonable opportunity to leave the area within which a Specified Protest is prohibited or remove any Graphic Image before any further enforcement action is taken.
- (3) Notice under subsection (1) will be provided in a manner that is reasonable under the circumstances, including but not limited to verbal communication, posted written notices, and loudspeakers.

- (4) For clarity, Section 7 shall not apply where there is an immediate threat to the health, safety, or security of the public, or where the Officer determines that circumstances necessitate a different course of action.

8. Order

- (1) Where an Officer has reasonable grounds to believe that a contravention of this By-law has occurred, the Officer may issue an Order to the person contravening this By-law in accordance with the provisions of the Administrative Penalties for Non-Parking Violations and Orders By-law.
- (2) Any person who contravenes an Order under this By-law is guilty of an offence.

9. Administrative Penalties

- (1) An Officer who finds or has reasonable cause to believe that a person has contravened any provision of this By-law may issue a penalty notice to the person in accordance with the provisions of the Administrative Penalties for Non-Parking Violations and Orders By-law.
- (2) Each person who has been issued a penalty notice shall, upon issuance of the penalty notice, be liable to pay an administrative penalty to the Town in the amount of \$300 or as revised in the Town's rates and fees schedule.
- (3) If an Officer has issued a penalty notice under subsection 9(1) of this By-law and has reasonable cause to believe that the same person has contravened the same provisions of this Bylaw, including any Schedules, for a second time within twenty-four (24) months of the date the first penalty notice is deemed to be served, the Officer may issue a second penalty notice to the person.
- (4) Upon issuance of the second penalty notice, the person shall be liable to pay an administrative penalty to the Town in the amount of \$400 or as revised in the Town's rates and fees schedule.
- (5) If an Officer has issued a penalty notice under subsection 9(3) of this By-law and has reasonable cause to believe that the same person has contravened the same provision of this Bylaw, including any Schedules, for a third or subsequent time within twenty-four (24) months of the date the second penalty notice is deemed to be served, the Officer may issue a third or subsequent penalty notice to the person.

- (6) Upon issuance of a third or subsequent penalty notice, the person shall be liable to pay an administrative penalty to the Town in the amount of \$500 or as revised in the Town's rates and fees schedule.
- (7) A person who has been issued a penalty notice under this By-law may request a review of the penalty notice in accordance with the Administrative Penalties for Non-Parking Violations and Orders By-law.

10. Service and Notice

- (1) Service of any penalty notice, order, or any other notice may be given as specified in the Administrative Penalties for Non-Parking Violations and Orders By-law.

11. Enforcement and Administration

- (1) Municipal law enforcement officers employed by the Town and police officers who are members of the Halton Regional Police Services are hereby authorized to enforce this By-law.
- (2) No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this By-law.
- (3) Any person who is alleged to have contravened any of the provisions of this By-law shall identify themselves to the Officer upon request. Failure to identify upon request shall be deemed as obstruction of the Officer.
- (4) An Officer may seize and remove any Graphic Image being displayed in contravention of this By-law.

12. Penalty

- (1) Every person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine not exceeding \$25,000.00 for a first offence and \$50,000.00 for any subsequent offence.

13. References

- (1) References in this By-law to any legislation or by-law means as may be amended or successor by-laws or legislation and includes any regulations thereunder.

14. Severability

- (1) In the event any provisions of this By-law are deemed invalid or void, in whole or in part, by any court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

15. Title

- (1) This By-law may be known as the “Safe Access to Vulnerable Social Infrastructure By-law”.

16. Effective Date

- (1) This By-law comes into force and effect on the date it is passed.

PASSED this day of ,

MAYOR

CLERK