

## **CITY OF VAUGHAN**

### **EXTRACT FROM COUNCIL MEETING MINUTES OF JUNE 28, 2016**

Item 7, Report No. 27, of the Committee of the Whole, which was adopted without amendment by the Council of the City of Vaughan on June 28, 2016.

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#### **REVIEW OF DISCHARGE OF FIREARMS BY-LAW**

**The Committee of the Whole recommends approval of the recommendation contained in the following report of the Director of By-law & Compliance, Licensing & Permit Services, dated June 21, 2016:**

##### **Recommendation**

The Director of By-law & Compliance, Licensing & Permit Services, in consultation with the Deputy City Manager, Community Services, and the City Solicitor, recommends:

1. That the Discharge of Firearms By-law, substantially as set out in Attachment No. 1 and in a form satisfactory to the City Solicitor, be enacted.

##### **Contribution to Sustainability**

As the city evolves and urbanises, practices such as the discharging of firearms for the protection of livestock, and the by-law that regulates and support them must change as well. This report has recommendations that recognize and support these changes.

##### **Economic Impact**

There is no economic impact to the City as a result of the adoption of the recommendation in this report.

##### **Communications Plan**

Access Vaughan, and other internal stakeholders shall be advised through internal channels. All stakeholders consulted in the formulation of this report shall also be notified of any changes.

##### **Purpose**

The purpose of this report is to seek Council authorization to enact a revised Discharge of Firearms By-law to continue to provide relevant protection to the public, by regulating the discharge of any designated weapons, including firearms, that may otherwise pose a hazard to public safety.

##### **Background – Analysis & Findings**

The City of Vaughan, like most municipalities in Ontario, strictly regulates the discharge of firearms and like weapons in the interest of public safety. The City's most recent By-law was passed in 1986 and was amended in 2006 to provide for one exemption. However, since its inception 30 years ago, Vaughan has evolved from a largely rural town to an increasingly urban city that is now also experiencing intensification. With some exceptions, the discharge of firearms within city limits represents a significant safety issue. At the same time, weapons have also evolved. Compound bows, for example, have increased significantly in firepower and have become more lethal at even greater distances.

In January, 2016, a hunting show in Vaughan involving a tour operator raised some controversy from animal rights groups. The show also raised some potential concerns due to the possible display of large-game hunting rifles. As a result, York Regional Police expressed an interest in having the City review its Discharge of Firearms By-law with a view to better facilitate the administration of existing regulations.

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In the course of their review, staff consulted with relevant stakeholders, including No Glare Architectural Glass Inc., Canada's Wonderland, the Maple Lions Club and York Regional Police.

Although the regulation of firearms falls largely within federal jurisdiction, one aspect falls within municipal purview.

#### Federal & Provincial Regulations

At the federal level, firearms are regulated primarily by the *Firearms Act*, 1995 and by Part III of the *Criminal Code*, 1985. The *Firearms Act* and its supporting regulations set out the rules for possessing a firearm. The *Criminal Code* and its supporting regulations identify the various firearms, weapons and devices regulated by the *Firearms Act*.

Both the *Criminal Code* and the *Firearms Act* contain offences and penalties for illegal possession or misuse of a firearm. For example, a person who has failed to register a restricted or prohibited firearm or who has used a firearm to commit a crime could be charged under the *Criminal Code*.

Provinces and territories have additional laws and regulations that apply in their jurisdiction to the use of firearms. For example, provinces are responsible for regulating hunting, often restricting where hunting can take place and on the caliber or gauge of firearms that may be used for hunting particular game.

Under Regulation SOR/98-209, which provides regulations for the storage, display, transportation and handling of firearms by individuals, non-restricted firearms (e.g., many rifles and shotguns fall into this category; most common long guns) may be displayed publicly as long as they are unloaded, rendered inoperable by a locking device or are locked in a secure container, and are not displayed with ammunition or the ammunition is not readily accessible. Restricted and prohibited firearms have additional restrictions in place. SOR/98-210 provides similar regulations for businesses.

#### Municipal Regulations

Pursuant to Section 119 of the *Municipal Act*, 2001, municipalities may, for the purpose of public safety, prohibit or regulate the discharge of guns or other firearms, air-guns, spring-guns, cross-bows, long-bows or any other weapon.

In Vaughan, the discharge of firearms is regulated within the city's limits. Under the current by-law, landowners may discharge a firearm, but only to protect crops or livestock. Since the By-law's latest reiteration in 1986, available farmland within city limits has decreased considerably. As of early 2016, there were 8,336.67 hectares of farmland (or 30.5% of Vaughan's total area). As urbanization continues to intensify and the threat to public safety from the discharge of firearms continues to grow, the use of firearms by landowners needs to be tempered commensurately.

Subject to written approval from Council, the By-law also permits the discharge of firearms for turkey shoots. The only public turkey shoot in Vaughan, conducted by the Maple Lions Club, has been discontinued. In its place the Maple Lions Club has established a "Christmas Turkey Shoot", which is a charitable target-shooting event.

At this time the only exemption to the current By-law that is still valid was granted in 2006 to No-Glare Architectural Glass which conducts ballistics testing of their products under strictly controlled circumstances.

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#### Jurisdictional Review

The following GTA jurisdictions have by-laws in place to regulate the discharge of firearms:

Municipality	Discharge*	Exemptions	By-law Versions	
			Current	Previous
Vaughan	Regulated	Officials; landowners for the protection of crops and livestock; By-law specific (No-Glare Architectural Glass)	1986	1986
Markham	Regulated	Officials; farmers in A1 zone for protection of livestock	2012	1986
Richmond Hill	Regulated	Officials; farmers for protection of livestock (with Council approval); indoor firearms shooting ranges; indoor archery ranges (with Council approval)	1989-90	1971-86
Brampton	Regulated	Officials; landowners in agricultural lands (not closer than 300m to a residential, commercial or industrial zone); By-law specific (specific gun ranges and police academy identified)	2005	1974
Mississauga	Regulated	Officials; lawful indoor firearm or archery ranges; indoor paint-ball facilities; for theatrical performances or filming (as long as projectiles are disabled)	2011	1977
Toronto	Regulated	Officials; former municipalities generally permitted police and legal shooting ranges; zoning prohibits private ranges (existing are legal non-conforming)	2004	Various

*\*The term "Prohibited" is used when the general public or identified groups of the general public are not permitted to discharge weapons within the municipality – exemptions are specific to organizations or events. The term "Regulated" is used when the general public or identified groups are permitted (whether explicitly requiring permission or not) to discharge weapons within the municipality.*

It should be noted that a majority of GTA municipalities have passed new by-laws within the last decade. Most have repealed or significantly amended regulations that reflected a more rural context. Only those municipalities with considerable farmland continue to provide an exemption to farmers or owners of agricultural land to discharge a firearm in the course of protecting their crops or livestock from pests and predators.

In Vaughan, the provision that provides for the discharge of a firearm for the protection of crops, livestock or property is not explicitly limited to owners of agricultural land, as is the case in other municipalities surveyed that had a similar provision. Although the *Criminal Code* makes it an offence to discharge a firearm while being reckless as to the life or safety of another person, without an explicit prohibition, the discharging a firearm, even in a residential area, is a possibility.

#### Proposed Amendments

The proposed Firearms By-law introduces a number of changes:

- 1) To prohibit the discharge of compound bows and other similar weapons by including them under the definition of designated weapon, as these can cause serious injury or death and their use is therefore a hazard in urban settings;

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- 2) To prohibit the discharge of air guns capable of a muzzle velocity that exceeds 64.5 metres-per-second, as such guns can cause severe injury. This restriction is in line with a recent decision from the Supreme Court (*R. v. Dunn*) that found such guns to be firearms for all purposes of the Criminal Code, except for licensing and registration. The proposed threshold would still allow air guns with a lower muzzle velocity to be used in the sport of paintball;
- 3) To limit the provision for landowners to discharge designated weapons, by prohibiting their use on any property not zoned as agricultural. Although Vaughan still has considerable agricultural lands, urbanization has continued to expand rapidly, making the discharge of firearms a higher risk. This provision is more in line with those in surrounding and urbanizing municipalities; and
- 4) To specifically, exempt the Maple Lions Club Christmas Turkey Shoot, subject to specific conditions.

#### **Relationship to Term of Council Service Excellence Strategy Map (2014-2018)**

The recommendations in this report are in line with the following priority for this term of Council:

- Continue to ensure the safety and well-being of citizens – by prohibiting the discharge of firearms and other weapons within city limits.

The recommendations of this report are also in line with the objectives and deliverables of the By-law Strategy, mainly to ensure that the City has by-laws in place that are relevant, effective and sustainable.

#### **Regional Implications**

The recommendations in this report were developed in consultation with York Regional Police and facilitate, and are complementary to, their administration of the federal *Firearms Act*, S.C. 1995, c.39. Registrant information obtained under the proposed By-law would be forwarded to the Chief Firearms Officer or his or her designate.

#### **Conclusion**

While there is a large rural area remaining in the northern parts of the City, greater restrictions are needed to ensure the safety of the city's residents. In addition, the change in the nature and firepower of designated weapons, such as compound bows and air guns, makes them a serious safety concern that requires explicit regulation.

#### **Attachment**

1. Proposed Discharge of Firearms By-law

#### **Report prepared by:**

Rudi Czekalla Martínez, Manager of By-law Policy

(A copy of the attachments referred to in the foregoing have been forwarded to each Member of Council and a copy thereof is also on file in the office of the City Clerk.)

## **COMMITTEE OF THE WHOLE – JUNE 21, 2016**

### **REVIEW OF DISCHARGE OF FIREARMS BY-LAW**

#### **Recommendation**

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#### **Attachment**

1. Proposed Discharge of Firearms By-law

#### **Report prepared by:**

Rudi Czekalla Martínez, Manager of By-law Policy

Respectfully submitted,

Gus Michaels  
Director of By-law & Compliance, Licensing & Permit Services

*THE CITY OF VAUGHAN*

***BY-LAW***

**BY-LAW NUMBER 000-2016**

**A By-law of the Corporation of the City of Vaughan regulating the discharge of firearms, to repeal By-law Number 21-86, as amended.**

WHEREAS section 119 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a municipality may, for the purpose of public safety, prohibit or regulate the discharge of guns or other firearms, air-guns, spring-guns, cross-bows, long-bows or any other weapon;

AND WHEREAS section 8(1) of the Municipal Act, 2001 provides that sections 8 and 11 shall be interpreted broadly as to confer broad authority on municipalities to (a) enable them to govern their affairs as they consider appropriate, and (b) enhance their ability to respond to municipal issues;

AND WHEREAS section 425 of the Municipal Act provides for a municipality to pass by-laws providing that a person who contravenes a by-law of the municipality passed under the Act is guilty of an offence;

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 this Act or under a by-law passed under this 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 this Act;

AND WHEREAS section 436 of the Municipal Act provides for a municipality to pass by-laws that authorize it to enter on land at any reasonable time for the purpose of carrying out an inspection; require information and inspect documents; and take samples;

AND WHEREAS the Council of The Corporation of the City of Vaughan wishes to pass a by-law that for the purpose of public safety and nuisance control, regulates the discharge of guns or other firearms, air-guns, spring-guns, compound bows, cross-bows, long-bows or any other designated weapon;

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

**SHORT TITLE**

1. This By-law shall be known and may be cited as the "Discharge of Firearms By-law."

## DEFINITIONS

2. In this By-law,
  - a) "City" means the Corporation of the City of Vaughan, in the Regional Municipality of York;
  - b) "Chief Firearms Officer" means the person designated as the chief firearms officer for the province of Ontario by the provincial minister of that province;
  - c) "Chief of Police" means the Chief of the York Regional Police;
  - d) "Designated Weapon" means a *Firearm*, *Prohibited Air Gun*, spring-gun, cross-bow, long-bow, compound-bow or any other similar weapon that can discharge a projectile that is capable of causing serious bodily injury or death;
  - e) "Director" means the City's Director of By-law & Compliance, Licensing & Permit Services and shall include his or her designate;
  - f) "Firearm" has the same meaning as in the Criminal Code of Canada and for purposes of convenience is reproduced here as: a barrelled weapon from which any shot, bullet or other projectile can be discharged and that is capable of causing serious bodily injury or death to a person, and includes any frame or receiver of such a barrelled weapon and anything that can be adapted for use as a firearm;
  - g) "Municipal Enforcement Officer" means a person appointed or employed by the City as a municipal law enforcement officer under Section 15 of the Police Services Act, R.S.O. 1990, c.P. 15, as amended;
  - h) "Prohibited Air Gun" means an air gun capable of a muzzle velocity that exceeds 64.5 metres-per-second.
3. No person shall discharge a *Designated Weapon* within the borders of the City of Vaughan.
4. Notwithstanding Section 3, a Police Officer, Conservation Officer, or Animal Control Officer may discharge a *Firearm* in the exercise of his or her duties.
5. Notwithstanding Section 3, a land owner, or his or her agent, may discharge a *Designated Weapon* solely for the purpose of destroying an animal, subject to the *Migratory Birds Convention Act*, 1994, Chap.22 and the *Fish and Wildlife Conservation Act*, 1997, S.O. 1997, Chap. 41, as amended, to protect and preserve his or her crops, livestock and other property as long as such discharge occurs within the land owner's property and the projectile discharged does not cross the property line, and that such property is zoned as agricultural (i.e., Zone A).
6. Paintball guns not deemed *Prohibited Air Guns* may be used for purposes of conducting paintball in a lawful facility approved for that purpose.

7. No person shall hinder or obstruct a *Municipal Enforcement Officer*, other agent of the City or York Regional Police Officer from entering and inspecting all lands at any reasonable time for purposes of determining whether there is compliance with this By-law.
8. Every person who contravenes Section 3 and 7 of this By-law is guilty of an offence and shall, upon conviction thereof, pursuant to Section 429 of the *Municipal Act, 2001*, be subject to the following penalties:
  - a) Upon a first conviction, to a fine of not less than \$300.00 and not more than \$50,000.00;
  - b) Upon a second or subsequent conviction for the same offence, to a fine of not less than \$400.00 and not more than \$100,000.00.
9. The following organizations are granted specific exemptions from the provisions of this By-law as outlined below:
  - A. No Glare Architectural Glass Inc. for the purposes of performing ballistic testing to develop and improve glass products.
  - B. Paramount Canada's Wonderland for the purposes of performing its entertainment shows, from time to time. This exemption is limited to the use of prop guns with blank ammunition only.
  - C. Maple Lions Club for the purpose of conducting its annual Christmas Turkey Shoot, subject to the following conditions:
    - (i) At least 30 days prior to the event, the *Director* and the Office of the *Chief of Police* are notified of the date, time and location of the event;
    - (ii) The discharge of firearms is not open to participation by the general public; and
    - (iii) no live animals are used in any way as part of the event.
10. The exemptions noted in Section 9 apply only if the named organizations maintain a valid Business Firearms Licence as issued by the *Chief Firearms Officer* under the *Firearms Act*, S.C. 1995, c.39, and there is no objection by York Regional Police.
11. Nothing in this By-law shall be interpreted as reducing or eliminating the need for full compliance with the provisions of all applicable Acts of the Province of Ontario and the Government of Canada that relate to the use of *Firearms* or other *Designated Weapons*.
12. By-law Number 21-86, as amended, is hereby repealed.