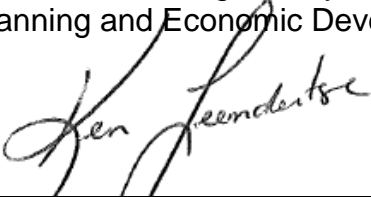




Hamilton

INFORMATION REPORT

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	July 7, 2020
SUBJECT/REPORT NO:	Fence By-law Appeal Process (PED20106) (City Wide) (Outstanding Business List Item)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Kim Coombs (905) 546-2424 Ext. 1318
SUBMITTED BY:	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department
SIGNATURE:	

COUNCIL DIRECTION

On November 13, 2019, Council approved Item 6 of Planning Committee Report 19-017 directing staff to look at the feasibility of having an appeal process for the Fencing By-law 10-142.

INFORMATION

The City of Hamilton Fence By-law 10-142, enacted on June 11, 2010 regulates the dimensions and type of fences in the urban boundaries of the municipality. Municipal orders are issued to remedy contraventions of the By-law, with no process to appeal the order, or no provision to seek relief of its strict application through a variance application. The current By-law repealed Fence By-laws of the former municipalities of the City that did not contain any provisions for appeal or variance.

A jurisdictional scan of 28 comparable municipalities, attached as Appendix "A" to this Report, determined that most municipalities opted a process to seek an exception or minor variance to the fencing requirements, as opposed to disputing or appealing an order issued by an Officer. A minor variance seeks relief from the By-law, whereas appealing or disputing an Order focuses on whether a contravention occurred and the remedial work to comply.

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OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

Most municipalities authorize the local Committee of Adjustment (CA) to recommend a minor variance (exception) to the provisions of the Fence By-law. The delegation is deemed minor in nature, where in the opinion of the CA, the variance meets the intent and general purpose of the By-law. In most cases, the review mirrors the minor variance process under the *Planning Act*, with the exception that the CA decision is presented to Council as a recommendation. The ultimate decision to any policy change or relaxing a fence by-law requirement rests with Council.

Although some jurisdictions authorize the Property Standards Committee, most municipalities assign the variance application to the CA whose members have more experience to minor policy change. City of Hamilton CA variances are currently tracked through the Amanda property file.

Approximately, 90 – 100 Orders are issued annually for contraventions to the Hamilton Fence By-law 10-142. Staff audit of records estimates that 10 – 15 of those Orders would likely result in a variance application before a review committee.

Variance application fees in other jurisdictions range from \$200 to \$3,600. Further cost analysis and consultation with Legal, Finance, Planning (Committee of Adjustment) and the Office of the City Clerk would be required to measure the staffing and financial impacts for a revenue neutral variance application process in Hamilton.

As this Report addresses the feasibility of a Fence By-law Variance Process it is appropriate to be identified as complete and removed from the Planning Committee Outstanding Business List.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A”: Municipality Comparison