

Report to Council

Report Title:	Fence Viewing By-Law Update		
Prepared By:	Sarah Johnson, Deputy Clerk		
Department:	Clerk's		
Date:	September 10, 2024		
Report Number:	CLK2024-20	File Number:	C11CL
Attachments:	Draft Fence Viewing By-Law		

Recommendation:

That the Council of the Municipality of Brockton hereby receives Report Number CLK2024-20 - Fence Viewing By-Law Update, prepared by Sarah Johnson, Deputy Clerk and in doing so approves a By-Law coming forward regarding Fence Viewing within the Municipality of Brockton under the Line Fences Act, including an administrative fee, and proceeding to recruit for new Fence Viewers to be later appointed by By-Law.

Report:

Background:

Line Fences Act, R.S.O. 1990, c. L.17 governs disputes between owners or occupants of lands, providing a procedure for the resolution of line fence disputes between the landowners of adjoining properties. Landowners can use the Line Fences Act to have a fence that marks the boundaries between their land and the adjoining owner's lands constructed, repaired, or reconstructed, and request that Fence Viewers view and arbitrate what portion of the fence each owner shall construct, reconstruct or repair and maintain and keep up. The Line Fences Act and Fence Viewers do not have the jurisdiction to resolve boundary line disputes.

Analysis:

The Municipality received its first Request for Fence Viewing in over 10 years this year.

As a result of this process, staff have drafted a new By-Law to layout the process involved with Fence Viewing under the Line Fences Act, the process for recruitment and appointment of Fence Viewers, associated fees for Fence Viewers, and the inclusion of an administrative fee.

The Line Fences Act allows for administrative fees to be charged if a By-Law has been passed. The Municipality of Brockton only has a collaborative appointment by-law and no other policies or by-laws for Fence Viewing, such that we are not currently permitted to charge an administrative fee.

The Municipality's Fees and Charges By-Law currently includes a fee to be paid to the Fence Viewers for their time associated with responding to the request and filing their decision. A Fence Viewer is paid \$75.00 per hour plus mileage, and three (3) Fence Viewers are required to attend the arbitration.

The approximate cost associated with the recent Fence Viewing was \$770. This cost was strictly to pay the three (3) Fence Viewers for their attendance. This cost was paid by the landowners and then distributed to the three (3) Fence Viewers.

However, there was significant staff time spent to organize, conduct, and finalize the Fence Viewing, including sending out documentation, which costs were not recovered for.

By including an administrative fee in this new Fence Viewing By-Law, the Municipality can recover some of the costs associated with the administration involved with the process, including the requirement for correspondence to be sent by registered mail.

Staff propose charging a \$100 administrative fee, which will be included in both the Fence Viewing By-Law and in the 2025 Fees and Charges By-Law.

Appointment of Fence Viewers

The Municipality of Brockton has appointed Fence Viewers since at least 2010, with the most recent appointment occurring in 2017.

Staff contacted the individuals currently appointed as Fence Viewers under the 2017 By-Law, and received some requests to update the By-Law and remove some appointments.

The draft By-Law included the process for recruiting Fence Viewers, and proposed timelines for their appointments. Staff are proposing that individuals be appointed on a term basis (Council Term of 4 years) to routinely assess their interest in continuing to provide their services to the Municipality. This also aligns with our current process of routine communication with our Committees and Local Boards of Council.

Staff will be recruiting for new Fence Viewers for the Municipality of Brockton. Staff will bring forward information to Council later this year for review, and individuals will be appointed by By-Law.

Staff recommend that the draft By-Law be adopted by Council and the appointment By-Law will be brought forward in the future.

Strategic Action Plan Checklist:

What aspect of the Brockton Strategic Action Plan does the content/recommendations in this report help advance?

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| • Recommendations help move the Municipality closer to its Vision | Yes |
| • Recommendations contribute to achieving Heritage, Culture, and Community | N/A |
| • Recommendations contribute to achieving Quality of Life | N/A |
| • Recommendations contribute to achieving Land Use Planning and the Natural Environment | N/A |
| • Recommendations contribute to achieving Economic Development | N/A |
| • Recommendations contribute to achieving Municipal Governance | Yes |

Financial Impacts/Source of Funding:

- Do the recommendations represent a sound financial investment from a sustainability perspective? Yes

The new \$100 administrative fee will be included in both the Fence Viewing By-Law and 2025 Fees and Charges By-Law.

Reviewed By:



Trish Serratore, Chief Financial Officer

Respectfully Submitted by:



Sarah Johnson, Deputy Clerk

Reviewed By:



Sonya Watson, Chief Administrative Officer