



REPORT

TO: Mayor Lawlor and Members of Council

FROM: Susie Spry, Manager of Enforcement Services

DATE: March 18, 2026

REPORT NO.: ADMIN-2026-005

SUBJECT: Seeking relief from obligations under the Line Fences Act and amendments to the Town of Halton Hills Fence By-law 2002-0060

RECOMMENDATION:

THAT Report No. ADMIN-2026-005 dated March 18, 2026 regarding amendments to the Town of Halton Hills Fence By-law 2002-0060 be received;

AND THAT By-law 2002-0060, a by-law to regulate the erection of Fences be amended to include relief from the Line Fences Act (excluding Section 20) and incorporate associated housekeeping updates;

AND FURTHER THAT Council approve the recommended changes as outlined in Report No. ADMIN-2026-005 and in the draft amending by-law (Appendix A)

KEY POINTS:

The following are key points for consideration with respect to this report:

- The Act, dating back to 1834, requires municipalities to appoint Fence Viewers, administer hearings, issue awards, and allocate costs for boundary fence disputes—even though such disputes are infrequent.
- Despite receiving only nine fence-viewing requests in the past decade, each case requires significant staff time, coordination, and formal processes, creating a disproportionate administrative load.
- Boundary fence issues are primarily civil matters between neighbours. Continued reliance on the Act places municipalities in the middle of disputes that are not inherently municipal responsibilities.

- Under Section 98 of the Municipal Act, municipalities may exempt themselves from the Line Fences Act (except Section 20). Many municipalities have already done so to reduce administrative burden, encourage private dispute resolution, and rely on modern local fence by-laws.
- As part of exempting Halton Hills from the Act, staff identified minor amendments to Fence By-law 2002-0060 to ensure alignment with current municipal practices and administrative procedures.

BACKGROUND AND DISCUSSION:

The *Line Fences Act* (the *Act*) is one of Ontario's oldest statutes, originally enacted in 1834. It provides a dispute resolution process for adjoining property owners who cannot agree on the construction, repair, or maintenance of a boundary fence. Under the *Act*, municipalities are required to:

- Appoint at least three (3) Fence Viewers to adjudicate disputes
- Administer hearings, issue awards, and allocate costs between property owners.

While the Act was historically intended for rural and agricultural contexts, it applies to all properties, including urban residential lots. Disputes under the *Act* are rare, yet the administrative burden remains significant. To begin the dispute-resolution process under the *Act*, property owners may contact the municipal Clerk to arrange for Fence-Viewers. The Town's Enforcement Coordinator is responsible for the administration of all inquiries and applications.

When Fence-Viewers are requested, the Enforcement Coordinator provides written notice to all parties, advising them of the date and time of the viewing. This viewing is typically scheduled between one week and 30 days after the notice has been mailed or sent electronically.

Prior to the site visit, the Enforcement Coordinator briefs the Fence-Viewers on the nature of the dispute. Three Fence-Viewers then attend the property, where they assess the location of the proposed fence or evaluate the condition of the existing fence. During the viewing, the Fence-Viewers may hear evidence from either party or from witnesses.

In accordance with subsection 8(2) of the *Line Fences Act*, the Fence-Viewers must consider the following factors before issuing their Award:

- The suitability of the fence to the needs of each party;
- The nature of the terrain where the fence will be located;
- The benefit to both parties of having the boundary marked by a fence;
- The nature of fences customary in the surrounding area; and
- Any other factors they deem relevant.

The Award, once issued, specifies the required style and construction of the fence, including the materials to be used and the deadline for completion. Where a municipal Fence By-law exists under the *Municipal Act*, the Award must comply with its provisions.

The Award also sets out how the work is to be apportioned between the parties and who is responsible for the associated costs. The Fence-Viewers may direct each party to construct or repair a designated portion of the fence, or they may require one party to complete all of the work while the other reimburses half of the cost. If a property owner is dissatisfied with the Fence-Viewers' Award, they may appeal the decision to a provincially appointed Referee.

The following challenges have been identified at this time with respect to continuing to rely on the Line Fences Act:

- **Low Demand:** In the past ten (10) years, the municipality has received nine (9) requests for fence-viewing services.
- **Resource Intensive:** Each application requires significant staff time, coordination of fence viewers, and preparation of legal notices and awards.
- **Civil Nature of Disputes:** Boundary fence disputes are primarily civil matters, not the responsibility of the municipality.

Legislative Authority to Opt Out

Section 98 of the *Municipal Act, 2001* provides municipalities with the authority to enact a by-law exempting themselves from the application of the *Line Fences Act*. This exemption may apply to all matters governed by the *Line Fences Act* with the exception of Section 20, which relates specifically to railway lands and continues to remain in force. Through such a by-law, a municipality may establish its own processes or decline to participate in the arbitration and cost-sharing provisions otherwise required under the *Line Fences Act*.

Reasons Municipalities Choose to Exempt Themselves from the Line Fences Act

Municipalities may opt out of the *Line Fences Act* for a variety of operational, administrative, and policy-based reasons. Common rationales include:

1. Reducing Administrative and Financial Burden

Administering the *Line Fences Act* requires municipalities to appoint fence-viewers, coordinate and conduct hearings, issue binding decisions, and manage any resulting appeals. Maintaining this structure demands staff time, training, and operational resources. By exempting themselves, municipalities eliminate these obligations, thereby reducing administrative workload and associated costs.

2. Encouraging Neighbours to Resolve Disputes Privately

Exemption places responsibility for boundary fencing disputes back with property owners. Without a municipal arbitration process to rely on, neighbours are encouraged

to explore private solutions such as civil remedies, mutual agreements, private mediation, or negotiated cost-sharing arrangements. This approach supports autonomy and reduces municipal involvement in property-related disputes.

3. Allowing Municipalities to Establish Their Own Regulatory Standards

Some municipalities prefer to regulate fences through their own by-laws, which may provide clearer, more modern, and more context-specific standards than those found in the *Line Fences Act*. These local by-laws can be aligned with broader municipal priorities including planning, property standards, aesthetics, and community safety. This flexibility enables municipalities to tailor fence regulations to local needs and expectations.

A jurisdictional review of neighbouring municipalities identified the following key approaches and practices:

MUNICIPALITY	APPROACH / ACTION TAKEN
City of Burlington	Still uses the Line Fences Act for dispute resolution
City of Brampton	In 2018, the municipality enacted a by-law formally exempting itself from the application of the Line Fences Act
Town of Caledon	Enacted a by-law in 2021 to exempt itself from the Line Fences Act
City of Guelph	Enacted a by-law in 2017 to exempt itself from the Line Fences Act
Town of Milton	Enacted a by-law in 2005 to include cost-sharing provisions and refers to the Line Fences Act
City of Mississauga	Enacted a by-law in 2004 to exempt itself from the Line Fences Act
Town of Oakville	Enacted a by-law in 2023 to exempt itself from the Line Fences Act
City of Toronto	Adopted a by-law in 2018 that removed the municipality from the application of the Line Fences Act

Additional Updates Needed

As part of the review of Fence By-law 2002-0060, undertaken to exempt the Town of Halton Hills from the Line Fences Act—with the exception of Section 20—staff have identified several minor amendments required to ensure the by-law aligns with current municipal practices and administrative procedures.

By-law 2002-0060 would be amended as follows:

Section 1. Definitions

The following definitions were added

“Actual Cost” means the total cost of the construction, reconstruction, maintenance or repair of a division fence, and includes the value of the material used and the value of the labour performed to complete the work;

“Adjoining Owner” means the person(s) who owns land adjoining the land on which another land owner desires to build a division fence;

“Basic Cost” means the cost of constructing, reconstructing or repairing a division fence for an amount of money not exceeding the cost of constructing, reconstructing or repairing a 1.2 metre (4 foot) high fence with the following specifications:

- (a) 4cm (1 ½ inch) diamond mesh;
- (b) Constructed of 14-gauge steel wire covered in vinyl, forming a total thickness equivalent to No. 12-gauge galvanized wire;
- (c) Be supported by 4cm (1 ½ inch) diameter galvanized steel posts encased in 5cm (2 inches) of concrete from grade to a minimum of 0.6 metre (2 feet) below grade, such posts to be spaced 3 metres (10 feet) apart;

“Business Day” means a day from Monday to Friday, other than a holiday as defined in section 87 of the *Legislation Act, 2006*, S.O. 2006, c. 21, Schedule F;

“Division Fence” means a fence marking the boundary between adjoining parcels of land and located on the actual property line;

“Quote” means a written estimate of the total basic cost of the construction, replacement or repair of a division fence.

Section 2. Applicability

Section 2 be amended to include the title Applicability

Section 2.4 be amended to read:

The provisions of Sections 4 and 5 of this By-law do not apply to fencing provisions contained in a Site Plan Agreement, Subdivision Agreement, or any other development-related agreement executed by the Town, or to a Fence that is constructed for the purpose of continuing a Fence that is authorized under a subdivision agreement.

Section 2.5 to be added to read:

From and after the date of enactment of this By-law, the provisions of the *Line Fences Act*, except for section 20 of *the Act*, shall no longer apply in the municipality.

Section 11 to be deleted in its entirety and replaced with the following sections.

Section 11. Division Fences - Notice of Intent

Section 11.1 An Owner of land may construct, replace or repair a division line fence.

Section 11.2 Where owners of adjoining lands agree or have reached an agreement about the construction, repair or replacement of a division fence, each shall be responsible to either:

- (a) Construct, repair, or replace, as applicable, their agreed-upon portion of the division fence; or
- (b) Assume their agreed-upon portion of the cost of any work required for the construction, replacement, or repair of the division fence

Section 11.3 Where owners of adjoining lands cannot agree and have not reached an agreement in accordance with subsection 3(2), an owner seeking to construct, replace or repair a division fence may do so subject to complying with the following conditions:

- (a) the owner must serve a notice of intent on the adjoining owner, in writing by registered mail or by personal delivery, to advise that they intend to construct, replace or repair a division fence, and such notice shall contain, at a minimum, the following information:
 - (i) whether the owner intends to construct, replace or repair a division fence;
 - (ii) copies of at least three (3) quotes for the fencing work to be undertaken;
 - (iii) a paragraph stating that the construction, repair or replacement of the division fence will commence after fourteen (14) business days of the mailing or personal delivery ailing or personal delivery of the notice of intent and the owner may seek payment of a contribution for the basic cost of the division fence from the adjoining owner in accordance with this by-law;
 - (iv) a paragraph stating that the adjoining owner may obtain up to three (3) additional quotes, to be presented to the owner by registered mail or by personal delivery, not later than ten (10) business days from the date on the notice; and
 - (v) a complete copy of this By-law.

Section 12 to be deleted in its entirety and replaced with the following sections.

Section 12 Division Fence Cost Responsibilities

Section 12.1 The cost of constructing, replacing or repairing a division fence shall be paid as follows:

- (a) the adjoining owner shall pay fifty percent (50%) of the basic cost; and
- (b) the owner shall pay the balance of the cost to construct, replace or repair the division fence.

Section 12.2 Any division fence constructed, replaced or repairs within an area designated as a heritage conservation district pursuant to Part V of the *Ontario Heritage Act*, R.S.O. 1990, O.18 is subject to all requirements for obtaining a permit pursuant to such legislation.

Section 13 to be deleted in its entirety and replaced with the following sections.

Section 13 Repairs

Section 13.1 Where an existing fence is damaged by an owner or a person permitted on their property, such owner shall be entirely responsible for the cost of the repairs to the division fence.

Section 13.2 Subject to subsection 5(1), the cost of repairing a division fence shall be borne equally by the owner and the adjoining owner if the damage necessitating the repair was caused by a natural disaster.

Section 13.3 Where a tree causes damage to a division fence, the owner of the land on which the tree is or was located shall be responsible for the cost of the repairs to the division fence and the cost of removing the tree, or part thereof.

Section 14 to be added to read:

Section 14 Variance Application and Hearing Process

Section 14.1 Council may, by resolution upon receipt of a written application, grant an variance from the provisions of Section 4, and the variance may be subject to terms and conditions as Council deems advisable. Council may also grant a variance of lesser effect than applied for or refuse to grant a variance.

Section 14.2 A completed application for a variance under Section 14 shall be filed with Enforcement Services on an application in the form prescribed by staff and shall include which section(s) of the Fence By-law the applicant is seeking relief from.

Section 14.3 No less than ten (10) days before the day of the hearing of the application for a fence variance, notification must be sent to owners of neighbouring properties who may be impacted by the variance by way of delivery of a written notice; by personal service or prepaid first class mail

Section 14.4 Service by prepaid first class mail shall be deemed to be effective on the fifth (5th) day after the notification is mailed.

Section 14.5 Enforcement Services shall investigate the feasibility of the location with respect to the adjacent neighbouring properties, and prepare a report to Council, which report shall contain Staff's opinion on the merits of the application and recommendations as to terms and conditions, if any.

Section 14.6 In deciding whether to grant the exemption, Council shall consider the application, the report from Enforcement staff, and any written submissions then received by Council, and shall give the applicant and any Person opposed to the application an opportunity to be heard and may consider such other matters as it sees fit.

Section 14.7 A breach by the applicant of any of the terms or conditions imposed by Council in granting a variance shall immediately render the variance null and void.

STRATEGIC PLAN ALIGNMENT:

This report is administrative in nature and does not have an impact on the Town's Strategic Plan.

RELATIONSHIP TO CLIMATE CHANGE:

This report is administrative in nature and does not directly impact or address climate change and the Town's Net Zero target.

PUBLIC ENGAGEMENT:

Public Engagement was not needed as this report is administrative in nature.

INTERNAL CONSULTATION:

The Manager of Enforcement Services consulted with the Town Clerk, the Enforcement Coordinators and the Town's Solicitor for this report.

FINANCIAL IMPLICATIONS:

This report is administrative in nature and does not have any financial implications.

However, opting out will reduce administrative costs associated with fence-viewer appointments and hearings.

Reviewed and approved by,

Valerie Petryniak, Town Clerk & Director of Legislative Services

Chris Mills, Chief Administrative Officer