

CITY OF HAMILTON

BY-LAW NO. 16-216

Being a By-Law to Appoint Fence-Viewers for the City of Hamilton

WHEREAS Section 2 of the *Line Fences Act*, R.S.O. 1990, c. L.17, provides that the council of every local municipality shall by by-law appoint such number of fence-viewers as are required to carry out the provisions of the *Act* and the by-law shall fix the remuneration to be paid for the fence-viewers and the remuneration may be fixed on an hourly or daily rate or a rate for each attendance or re-attendance by the fence-viewers;

AND WHEREAS subsection 17(1) of the *Line Fences Act*, R.S.O. 1990, c. L.17, provides that the council of every local municipality may by by-law fix its reasonable administrative fees to be paid to the municipality in relation to proceedings under the *Act*;

AND WHEREAS subsection 5(2) of the *Line Fences Act* R.S.O. 1990, c. L.17, states that the council of every local municipality may provide by by-law that no arbitration or other proceeding requiring the attendance or re-attendance of fence-viewers shall be scheduled between the 1st day of November and the 31st day of March in the next following year;

NOW THEREFORE BE IT RESOLVED that the Council of the City of Hamilton enacts as follows:

Definitions

1. By-law No. 08-157 is repealed.
2. In this By-Law:
 - (a) “Adjoining Owner” means the registered owner of land that adjoins the Applicant’s land and that is subject to proceedings under Section 4 of the *Line Fences Act*;
 - (b) “Applicant” means the registered owner of land who notifies the Clerk that they desire Fence-Viewers to view and arbitrate as to what portion of the fence they and the Adjoining Owner shall construct, reconstruct or repair and maintain and keep up under Section 4 of the *Line Fences Act*;

- (c) "City" means the municipality of the City of Hamilton or the geographic area of the City of Hamilton, as the context requires; and,
- (d) "Clerk" means the City Clerk of the City of Hamilton or their designate.
3. The following two persons are appointed as Fence-Viewers for the City for the balance of the term of City Council to expire November 30, 2018 or until such time as a successor is appointed by Council:
- (i) Robert Kominar; and,
- (iii) David Ryder
4. The remuneration to be paid by the City to the Fence-Viewers shall be a rate of ninety dollars (\$90.00) for each Fence-Viewer for each fence viewing plus mileage, at the City's non union mileage allowance rate, from the Fence Viewer's place of residence to the location of the fence viewing and return.
5. The administrative fee to be paid by the Applicant to the City shall be one hundred dollars (\$100.00) for each fence-viewing.
6. The cost of remuneration paid to the Fence-Viewers shall be recovered from either the Applicant or the Adjoining Owner as the Fence-Viewers deem appropriate, or by both in such proportions as the Fence-Viewers deem appropriate.
7. An Applicant, upon notifying the Clerk that they desire Fence-Viewers, shall pay the City three hundred (\$300.00) dollars as a deposit to be paid first against the Applicant's portion of the costs of remuneration and the administrative fee and second against the Applicant's portion of any fence viewing award.
8. There shall be no arbitration or other proceeding requiring the attendance or re-attendance of Fence-Viewers scheduled between the 1st day of November in any year and the 31st day of March in the following year.
9. This By-law comes into force on the day it is enacted.

PASSED this 12th day of August, 2016.

Fred Eisenberger
Mayor

J. Pilon
Acting City Clerk