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# HALDIMAND COUNTY

## Memorandum BME-M01-2020 Additional Information to Report BME-02-2020 Establishment of a Fence By-law



For Consideration by Council on November 23, 2020

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**To:** Mayor Hewitt and Members of Council  
**From:** Randy Charlton, Manager of Building and Municipal Enforcement Services

On November 17, 2020, Council in Committee deferred Report BME-02-2020 Establishment of a Fence By-law in order to provide time for Staff to consult with the County solicitor regarding the section of the draft by-law relating to the repair/replacement of non-complying fences. The proposed section of the draft By-law provided that where 50% or more of the (existing non-complying) fence along any individual lot line is replaced, the replaced section would need to comply with by-law. The issue raised during CIC was that the section, as drafted, could be onerous to enforce. Staff's understanding from Council was to adjust the section to simplify and require replacement, provided there was no legal reason to not do so.

The County solicitor has advised that a regulation to either require a replaced section of a fence to comply with the by-law or to grandfather existing fences indefinitely, is solely a policy decision. There are no legal requirements which would direct Council to choose one proposed regulation over another in this regard.

With this in mind, in order to realize a consistent landscape for fence construction across the County, regardless of when a fence was constructed, Staff recommends that *Section 1.b.* of the draft Fence By-law be changed as follows:

**Delete:**

*any pre-existing Fence where 50% or more of the Fence along any individual lot line is replaced for any reason shall comply with the provisions of this by-law; and*

**Replace with:**

*any fence or part thereof, that is replaced for any reason, shall comply with the provisions of this by-law.*

Staff is expecting that the impact on property owners regarding this regulatory recommendation will be minimal. However, it should be noted that this change to regulation would require any fences along the lakeshore (built to water's edge) and damaged by recent storm activity to now comply with the new regulations specified for fences along Lake Erie within the draft Fence By-law.