

4.0 Executive Summary

On December 15, 2020, City Council passed a resolution directing staff to bring back a report and draft by-law detailing how the municipality can prohibit the use of excessive surveillance equipment. Concerns have been raised by residents that surveillance equipment is being used to record more activities than are necessary for the security of an individual's property, at times resulting in the violation of the privacy of others.

Staff reviewed fortification by-laws across a number of municipalities (including Hamilton, London, Windsor, Guelph, Oshawa, and Burlington), which informed the development of the proposed by-law referenced to in this report. Staff consulted with the Building Department as well as the Brantford Police Service.

The by-law will regulate in respect of the fortification of and protective elements applied to land, and prohibit excessive fortification of land and protective elements applied to land. Fortification refers to the act of fortifying land and buildings, which may have the undesired effect of impeding access to and from land or buildings (e.g. installing steel bars over windows), while the application of protective elements refers to the use of devices such as surveillance equipment and perimeter warning devices. The by-law's regulation of both the fortification of land and protective elements applied to land is in-line with the approach used by other municipalities.

In order to regulate in respect of the fortification of and protective elements applied to land, and prohibit excessive fortification of land and protective elements applied to land, it is recommended that Council adopt the by-law.

Brantford has an existing fortification by-law. The proposed by-law will repeal and replace the existing one with an updated and more comprehensive by-law.

5.0 Purpose and Overview

The purpose of this report is to seek Council's approval to enact a by-law which will regulate in respect of the fortification of and protective elements applied to land, and prohibit excessive fortification of land and excessive protective elements being applied to land within the City of Brantford.

6.0 Background

Concerns have been raised by Brantford residents that surveillance equipment is being used to record more activities than are necessary for the security of an

individual's property, and that such use of surveillance equipment can violate the privacy of others when used inappropriately.

Council, in response to those concerns, on December 15, 2020, passed the following resolution:

WHEREAS concerns have been raised by residents that surveillance equipment is being used to record more activities than are necessary for security of an individual's property; and

WHEREAS such surveillance equipment can violate the privacy of others when used inappropriately; and

WHEREAS the Municipality may pass by-laws that protect the public and are in the interests of the health, well-being and safety of its residents, pursuant to s. 10 of the *Municipal Act*, 2001, S.O. 2001 c. 25, as amended (the "*Municipal Act*"); and

WHEREAS s. 133 of the *Municipal Act* specifically permits municipalities to pass by-laws in relation to excessive surveillance equipment; and

WHEREAS the Municipality deems excessive to mean surveillance equipment that can record beyond the boundaries of the property on which it is located, however, excessive shall not include devices such as doorbell cameras used for visitor identification purposes at main entry points to the property; and

WHEREAS it is not the intention of the Municipality to prohibit surveillance equipment on commercial, industrial or institutional properties at this time; and

WHEREAS neighbouring municipalities have passed by-laws preventing the use of such excessive surveillance equipment, successfully addressing the privacy concerns of its residents;

NOW THEREFORE BE IT RESOLVED THAT Staff bring back a report and draft by-law detailing how the municipality can prohibit the use of excessive surveillance equipment.

7.0 Corporate Policy Context

The by-law aligns with the City of Brantford Council Priorities, 2021-2022, #1
Desired Outcome: All neighbourhoods in the City are safe, vibrant, attractive,
and inclusive.

8.0 Input From Other Sources

Staff from the Building Department have reviewed and provided comments on the by-law.

The Brantford Police Service has also reviewed and provided comments on the by-law by way of a letter dated January 31, 2022 from the Chief of Police of the Brantford Police Service, Robert A. Davis, to the Chief Administration Officer of the City of Brantford, Brian Hutchings.

9.0 Analysis

The enactment of the by-law will help address concerns pertaining to the use of residential surveillance equipment that violates the privacy of others, such as video cameras capturing images or making recordings of a neighboring property. The by-law prohibits the application of “excessive protective elements” to land. The by-law provides examples of excessive protective elements, such as using a video camera to record activities beyond the boundaries of one’s own land.

An example in which the use of a video camera would fall under excessive protective elements is a situation in which it was configured to record beyond the boundaries of one’s own property – such a use would be prohibited under the by-law. The by-law exempts the use of commercially marketed security devices (e.g. video cameras) designed and used to provide reasonable protection from theft or other criminal activity against a person or property of a person and which do not meet the definition of excessive protective elements. Accordingly, an individual who installs a video camera on his or her property in order to provide reasonable protection from theft, for example, and the camera does not record beyond his or her property’s boundaries, would be exempt from the application of the by-law.

The by-law also regulates the fortification of land. The by-law prohibits “excessive fortification” of land. Preventing excessive fortification of land and buildings will help prevent situations in which emergency service personnel are prevented from accessing a property or their ability to access is impeded. The

by-law provides examples of excessive fortification, such as the installation of steel bars to windows (not including basement windows) or armour plated doors.

There are various entities to which the by-law does not apply:

- Financial institutions;
- Detention centres;
- Lands occupied by the City, Federal and Provincial Government;
- Lands occupied by schools;
- Lands occupied by police forces;
- Lands occupied by shelters or similar charitable or non-profit agencies;
- A “normal farm practice”;
- Lands occupied by a courthouse;
- Commercial, industrial or institutional establishments;
- Lands for which an exemption has been granted in accordance with the by-law

The by-law provides the ability for an individual to make an application for a partial or complete exemption from the by-law, which will be sent to the Chief Building Official. The Chief Building Official may issue an exemption, with or without conditions, if:

- There is a reasonable connection between the necessity for the exemption and rationale provided for the exemption and the nature and extent of exemption requested;
- The nature and extent of the exemption requested does not exceed that which is reasonably necessary; and
- Access to or escape from the property for emergency services personnel is not unreasonably interfered with or limited.

The by-law will be enforced by the Chief Building Official, municipal law enforcement officers and the Brantford Police Service.

Where any of the foregoing individuals are satisfied that a contravention of the by-law has occurred, the Chief Building Official or a municipal law enforcement officer may make an order requiring a correction of the contravention. In the event of non-compliance, the City will have the option to have the contravention corrected at the cost of the occupant. Non-compliance may also result in charges being laid under the *Provincial Offences Act*.

10.0 Financial Implications

There are no financial implications for the City associated with the recommendations contained within this report.

11.0 Climate and Environmental Implications

There are no climate and environmental implications for the City associated with the recommendations contained within this report.

12.0 Conclusion

Enacting the proposed by-law will allow the City to regulate in respect of the fortification of and protective elements applied to land, and prohibit excessive fortification of land and protective elements applied to land, which includes the ability to regulate and enforce the use of excessive surveillance equipment. It is recommended that Council adopt the proposed by-law.



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Attachments: Appendix "A" – Draft By-law to Regulate in Respect of the Fortification of and Protective Elements Applied to Land

In adopting this report, is a by-law or agreement required? If so, it should be referenced in the recommendation section.

By-law required

yes no

Agreement(s) or other documents to be signed by Mayor and/or City Clerk yes no

Is the necessary by-law or agreement being sent concurrently to Council? yes no