



City of Hamilton

Report for Consideration

To: Chair and Members
Planning Committee

Date: September 29, 2026

Report No: PED25276(b)

Subject/Title: Follow-Up Review of Fortification By-law 10-122 (REVISED)

Ward(s) Affected: City Wide

Recommendations

- (a) That an amendment to the city of Hamilton By-law 10-122 (Fortification By-law) **be approved** to remove video surveillance equipment from the definition of “excessive protective elements”.
- (b) That staff **be directed** to prepare the necessary amending by-law for enactment by Council.

Key Facts

- The purpose of this report is to recommend amendments to the Fortification By-law to remove surveillance equipment from the definition of excessive protective elements.

- The current provisions regulating cameras are legally vulnerable and difficult to enforce and are susceptible to Charter challenges related to freedom of expression.
- A jurisdictional scan of municipalities indicates that a number of municipalities are not regulating residential surveillance cameras through similar Fortification By-laws.
- Prosecuting offences under the by-law related to surveillance equipment is complex, resource-intensive, and presents significant challenges in obtaining a conviction.
- Removing the camera-related provisions aligns the by-law with its core purpose of addressing physical fortification impacting emergency access.

Financial Considerations

There are no direct capital costs associated with the recommended amendment.

Operational impacts are expected to be positive, including reduced staff time, reduced legal costs, and avoidance of Charter litigation risks.

Background

The Fortification By-law (10-122) was enacted by Council in 2010 to address concerns related to excessive fortification of properties within the City. At the time, the by-law was developed primarily in response to heavily fortified buildings. These properties often included features that restricted access and posed risks to public safety and emergency response.

The intent of the by-law was to ensure public safety and maintain access for emergency services by regulating excessive protective elements that could impede entry to or exit from a property, including fortified fencing, heavy steel doors, and surveillance systems capable of monitoring beyond a property boundary.

Following its enactment, the by-law was effective in addressing the immediate concern of heavily fortified properties and reduced such installations across the City.

Over time, unintended impacts emerged related to private surveillance equipment. The by-law has increasingly been applied to complaints involving cameras beyond property lines, despite not intending to regulate reasonable personal security measures.

Building Division data shows a shift from approximately 11 complaints in 2012 to approximately 171 in 2023, the majority related to cameras and neighbour disputes.

Advancements in surveillance equipment technology and reduced costs have made the by-law language outdated and difficult to apply.

Enforcement has been challenging, with unsuccessful Provincial Offence charges and significant resource impacts.

Internal discussions with Legal Services in 2023 led to a jurisdictional scan and formal review, forming the basis for this report.

Analysis

In accordance with the approved Terms of Reference (PED25276), staff have undertaken a focused review of the Fortification By-law, with priority given to provisions related to surveillance cameras due to their legal, operational, and resource implications. This report presents the findings and recommendations arising from that review component. Further updates respecting other aspects of the by-law will be brought forward as required.

The regulation of surveillance cameras within the current by-law framework presents issues related to compliance with the Charter of Rights and Freedoms and in particular with respect to the right to freedom of expression.

From an enforcement perspective, the regulation of surveillance cameras has proven to be operationally complex and resource intensive. Investigations often require detailed technical analysis of camera positioning, field of view, and incidental capture, which are

difficult to establish with certainty and challenging to prosecute. As a result, enforcement outcomes have been limited, with unsuccessful Provincial Offence proceedings and increasing demands on staff resources.

Through this review, staff have identified that the current scope of the by-law extends beyond its intended purpose, particularly with respect to surveillance cameras, which do not directly impact emergency access or egress. The original intent of the Fortification By-law was to regulate physical features that could impede access for emergency services or pose risks to public safety, such as reinforced barriers, fortified entry points, and controlled access systems. Surveillance cameras are not consistent with this core objective.

A jurisdictional review conducted as part of this study and summarized in Table 1 below, indicates that most comparable municipalities do not regulate residential surveillance cameras through fortification or property standards by-laws. Where regulations have been considered or implemented, municipalities have encountered similar Charter rights and enforcement challenges and have generally avoided regulating camera use due to these concerns and practical limitations.

Table 1 Jurisdictional Review of Municipalities

Municipality	By-law	Notes
Brantford	Yes	The definition of “excessive protective elements” excludes cameras that capture the road or sidewalk where “there is no reasonable expectation of privacy.”
Brampton	Yes	Brampton does not enforce the camera provisions of the by-law based on public complaints.
Burlington	Yes	Includes an exemption for typical security cameras.
London	Yes	London does not enforce the camera provisions of the by-law based on public complaints.
Markham	No	-
Mississauga	Yes	Similar to Hamilton’s Fortification By-law, with a minor amendment to facilitate prosecution: the camera need only “appear” capable of recording beyond the property’s boundary for it to be prohibited.
Niagara Falls	No	-
Oakville	No	-
Oshawa	Yes	Includes an exemption for typical security cameras.
Ottawa	No	-
St. Catharines	No	-
Toronto	No	-
Vaughan	Yes	Removed reference to surveillance cameras in 2024 due to enforcement issues, and a prohibition on cameras not aligning with the purpose of the by-law (safety of emergency personnel).

It is also important to note that concerns related to surveillance cameras—such as privacy, harassment, or inappropriate monitoring—are more appropriately addressed

through existing federal and provincial legislation, including civil remedies and Criminal Code provisions where applicable. These matters fall outside the intended scope of municipal fortification regulations and are better managed through established legal frameworks.

It is to be noted that the City of Toronto does not regulate private residential security cameras through a municipal by-law. Instead, [Toronto's website](#) provides residents with information on the use of such cameras and available avenues for addressing related concerns. Consistent with this approach, and to ensure residents continue to have access to information and guidance, staff propose to develop a similar webpage outlining best practices for the installation and use of residential security cameras, strategies for minimizing impacts on neighbouring properties, and options for addressing concerns and disputes.

Residents may be directed to:

- Speak with their neighbour directly and request that the camera be repositioned or certain features disabled.
- Consider community mediation services where concerns cannot be resolved through direct discussion.
- Seek independent legal advice where they believe a security camera is interfering with their privacy rights or enjoyment of property.
- Contact the Hamilton Police Service where they believe a security camera is being used in connection with criminal activity, harassment, intimidation, or other public safety concerns.

Consistent with the Terms of Reference, staff evaluated whether surveillance cameras could be appropriately regulated within the existing by-law framework and determined that they cannot. Any attempt to refine or exempt certain types of cameras would not address the legal or enforcement challenges and would continue to involve the municipality in disputes that are not aligned with the by-law's purpose.

Given the recommended removal of surveillance camera provisions, no changes to divisional responsibilities are required, as these matters would no longer fall within the scope of municipal by-law enforcement.

Alternatives

Amend the by-law to provide exemptions for certain types of surveillance equipment (e.g., those capturing public rights-of-way).

Advantages:

- Provides limited clarification regarding permitted surveillance equipment use; and,
- May reduce some enforcement conflicts related to typical residential devices.

Disadvantages:

- Enforcement remains complex, including determining field of view and incidental capture;
- Introduces additional interpretive challenges and administrative complexity;
- Continues to involve the city in neighbour disputes related to privacy and surveillance; and,
- Remains inconsistent with the intent of the Fortification By-law.

Staff do not recommend this alternative as it does not address the legal and enforcement challenges identified in this report.

Relationship to Council Strategic Priorities

Priority: Safe & Thriving Neighbourhoods

Outcome: Improved public safety and effective regulation

Measure of Success: Reduced legal risk and improved enforcement efficiency

Previous Reports Submitted

- PED25276 Terms of Reference for Review of Fortification By-law No. 10-122
- PED25276(a) Review of Fortification By-law 10-122

Consultation

Legal Services Division and Building Division have consulted on this report.

Appendices and Schedules Attached

NA

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