

REPORT NO. 233 of the
ENVIRONMENT, TRANSPORTATION & PUBLIC SAFETY
STANDING COMMITTEE
of its meeting held October 22, 2014

Present: **Councillor J. Gignac**
 Councillor R. Jones
 Councillor A. Halberstadt
 Councillor F. Valentinis, Chair

Regrets: **Councillor H. Payne**

That the following recommendations of the Environment, Transportation and Public Safety Standing Committee **BE APPROVED:**

Moved by Councillor Gignac, seconded by Councillor Jones,

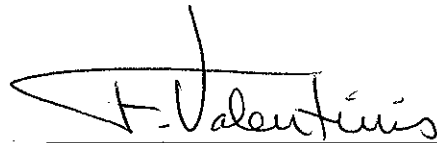
THAT By-law 170-2012-A By-law to Prescribe the Height & Description of Fences in the City of Windsor, **BE AMENDED** to include the following changes:

- THAT the height limitation for fences/hedges in rear yards (water side) of any lot located on the North Side of Riverside Drive East between Drouillard Road and Lakeview Avenue **BE RESTRICTED** to a maximum allowable height of 1.2 m.
- THAT the height limitation for fences/hedges for side yards on the North Side of Riverside Drive East between Drouillard Road and Lakeview Avenue **BE RESTRICTED** to a maximum allowable height of 2.2 m.
- THAT the height limitation for hedges in front yards (road side) of any lot located on the North Side of Riverside Drive East between Drouillard Road and Lakeview Avenue **BE RESTRICTED** to a maximum allowable height of 2.4 m; and
- THAT the height limitation for fences in front yards of any lot located on the North Side of Riverside Drive East between Drouillard Road and Lakeview Avenue **BE RESTRICTED** to a maximum allowable height of 1.2 m.

Carried.

LIVELINK # 17322, AB2014

Clerk's Note: The administrative report authored by the Manager of By-law Enforcement dated August 29, 2014 entitled "*Supplementary Report to Housekeeping Amendment to By-law 170-2012 – A By-law to Prescribe the Height & Description of Fences in the City of Windsor*" is attached as background information.



CHAIRPERSON



DEPUTY CITY CLERK

NOTIFICATION:	
NAME	CONTACT INFORMATION
Craig Kondruk	congo51@hotmail.com
John Dignan	john.dignan@cogeco.ca
Robert Bell	11676 Riverside Drive East, Windsor ON N8P 1A6
Gary Waghorn	11722 Riverside Drive East, Windsor ON N8P 1A6
Jane Boyd	11660 Riverside Drive East, Windsor ON N8P 1A6



THE CORPORATION OF THE CITY OF WINDSOR
Environment, Transportation & Public Safety Standing Committee
Admin Report – Public Safety



MISSION STATEMENT:

"Our City is built on relationships – between citizens and their government, businesses and public institutions, city and region – all interconnected, mutually supportive, and focused on the brightest future we can create together."

Report Livelink No.: 17322 AB2014	Date of Report: August 29, 2014
Author's Name: Ann Kalinowski, Manager of By-law Enforcement	Date of Standing Committee: October 22, 2014
Author's Phone: 519-255-6100 ext. 1931	Classification #:
Author's E-mail: akalinowski@city.windsor.on.ca	

To: Environment, Transportation & Public Safety Standing Committee

Subject: Supplementary Report to Housekeeping Amendment to By-law 170-2012 – A By-law to Prescribe the Height & Description of Fences in the City of Windsor

1. RECOMMENDATION: City Wide: X Ward(s): _____

THAT By-law 170-2012 **BE AMENDED** to include the following changes:

- Remove *hedge* from the definition of fence under section 2.8 and add it only when used in a visibility triangle that extends onto private property.
- Remove *excluding a hedge* in section 4.1 (a) and (d)
- Remove *including a hedge* in section 4.1 (b) and (c)
- Remove the height limitation for hedges in rear yards of any lot located on the north side of Riverside Drive East between Strabane Avenue and Lakeview Avenue in section 4.2., and that amendments to By-law 170-2012 introduced by By-law 171-2013 be repealed.

EXECUTIVE SUMMARY:

N/A

2. BACKGROUND:

By way of background information, on December 2, 2012 Council passed the new Fence By-law #170-2012. The new Fence By-law highlights included:

- Maximum height of all hedges in a residential front yard must not exceed 1.2 m (4.0 ft) regardless of the age of the hedge (no grandfathering).
- No restriction on hedge heights in side or rear yards on a residential yard.
- Hedges at a roadway intersection (*visibility triangle*) must not exceed 0.9 m.

On July 22, 2013 Councillor Gignac raised the following Council Question

CQ26-2013: "Asks Administration to prepare a report to Council outlining possible amendments to By-Law 170-2012 pertaining to decorative hedges that don't impede traffic sightlines. Currently a number of decorative hedges that have been in place for many years are non-compliant with the 2012 amended by-law and proactive enforcement will begin August 1. I would ask that until the report returns to council enforcement stand down".

On October 21, 2013, City Council moved the following recommendation under M380-2013 as follows:

"That Report No. 159 of the Environment, Transportation & Public Safety Standing Committee of its meeting held September 25, 2013 regarding "Housekeeping Amendments to By-law 170-2012 – A By-law to Prescribe the Height and Description of Fences in the City of Windsor" BE RECEIVED, and further, That the By-law to Prescribe the Height and Description of Fences (By-law 170-2012) in the City of Windsor BE MAINTAINED in its current form, and that Administration BE DIRECTED to continue to research the protection of site lines for residential properties on the north side of Riverside Drive East between Pratt Place and the easterly City limits and report back to the Environment, Transportation & Public Safety Standing Committee regarding any recommended by-law amendments pertaining to site line issues and hedges, and furthermore, that enforcement of all hedges except within a visibility triangle BE STOOD DOWN during this period of time."

Bill 171-2013, *A By-law to Amend By-law 170-2012, Being A By-law To Prescribe The Height And Description Of Fences In The City Of Windsor*, was passed in error at the October 21, 2013 City Council meeting. Administration is recommending that the Bill be repealed at this time.

Since last fall, the Building, Legal and Planning Departments have been researching the issue of protection of sightline and setbacks from waterfront/shorelines. During this time, By-law Enforcement continued to stand down on enforcement of hedges except within a visibility triangle.

3. DISCUSSION:

Sight Line: Right to a View

Generally, common law does not protect a right to a view. When courts apply the law of nuisance, they determine whether there has been an act causing physical interference with land or whether there has been substantial interference with the use or enjoyment of land (*St. Pierre v. Ontario* [1987] 1 S.C.R. 906). However, the loss of a prospect or view from the land has not been compensable.

Furthermore, the Ontario Municipal Board (OMB) has held that in law, there is no right to a view over the property of another. *Cottrelle v. Toronto (City) Committee of Adjustment* (1988), 22 O.M.B.R. 270. The OMB has demonstrated this in multiple decisions:

- The OMB held that a tenant could not seek damages for loss of the view of a wooded area on an adjoining property, even though in that case, the agent of the landlord assured the tenant that there were no plans to develop the lot in the future. *Teachout v. Sifton Properties Ltd.* 2000 CarswellOnt 6353.

- A neighbour objected to a possible deck being built as it would impact the view of the lake from his property. The OMB held there was no legal right to a view. *Leo v. Whitestone (Municipality)* 67 O.M.B.R. 508.
- Immediate neighbours on either side of a home, objected to a gazebo structure, both argued that if a height variance were permitted it would affect the view from their property. It would interfere with the line of sight from their family room windows, as well as the sight lines from their respective balconies. The OMB held that there was no right to a view, and that any impact was confined within the applicant's property. *Re Randhawa* 57 O.M.B.R. 203.
- OMB agrees that there is no right to a view over another's property. Principles of good planning allow the protection of views that are recognized in planning documents as significant views that are in the public interest to protect. *Cedar's Homeowners Lakeside Corp v. Wainfleet (Township)* 41 O.M.B.R. 155.

These court decisions demonstrate that there is no basis for a claim from property owners pertaining to a right to a view of the water. Although the above court cases do not directly deal with a fence or a hedge, obstructions to a view were present in all cases. It would be likely that the same principles would apply, unless the homeowners with the obstruction were in violation of a municipal by-law.

Ontario Best Practices: Sight Line Protection

Although a homeowner does not have a right to a view, this does not prevent the municipality from taking steps to preserve views for homeowners. It is within a Municipality's power under Municipal Act: 10(2)(10) to pass by-laws respecting (fences), which include hedges.

Fence/Hedge by-laws of 10 Ontario municipalities, most of which are adjacent to a large body of water, were reviewed to determine their approach to sightlines on waterfront property. None of the surveyed municipalities have any clauses to prevent the obstruction of sightlines, hereby attached as Appendix "A". The municipalities merely regulate the height of fences and in some cases hedges.

City of Windsor By-Law Options

The City of Windsor has several options regarding how to proceed with sightlines:

The municipality can remove any specific fence and/or hedge regulations for the north side of Riverside Drive East regarding the issue of preserving a view by regulating hedges or fences. This is an option because the right to a view is not a legal concept, and would not be successful on legal grounds.

- 1) The municipality can continue to enforce the current by-law requiring the height of fences to be 1.2 metres on the north side of Riverside Drive East and remain silent on hedges.
- 2) The municipality can regulate hedges and fences as one with no regard to a sightline.

If the municipality prefers to protect private sight lines of the waterfront through a “view protection by-law”:

- 1) The municipality can enforce a hedge by-law that restricts the height of the hedge to a maximum allowable amount, regardless of age of the hedge, ensuring and preserving the opportunity for sightlines for waterfront homes.
- 2) The municipality can implement a staggering approach (as used in Oakville for Privacy Fences) for every foot away from the waterfront, the hedge can be one foot taller to reach a maximum allowable height.
- 3) The municipality could enforce a more subjective provision that limits fences, hedges, walls to a height and or/material that does not significantly interfere with the view of the water from immediately adjacent properties.
- 4) The municipality could enforce a maximum height of hedges for water view lots, which would be limited to a maximum height when sight lines/water views are adversely affected.
- 5) The municipality could enforce hedges exclusively for waterfront properties. Hedges along the sight property lines shall not be permitted within a certain distance (ex. 10 metres) of the water’s edge. The water’s edge is defined as the average high ground water elevation.

After viewing all the options, Administration is recommending continued enforcement of the current Fence By-law requiring the height of fences to be 1.2 metres on the north side of Riverside Drive and remain silent on hedges unless they are within a *visibility triangle* that extends onto private property. The rationale for the amendment is to ensure public safety and provide realistic enforcement based upon current staffing.

Hedges found on public property will continue to be removed through enforcement by Public Works Administrative Inspectors under By-law 25-2010.

4. RISK ANALYSIS:

Hedges located at a roadway intersection or anywhere on the public right-of-way can create visual obstructions for motorists, cyclists and pedestrians that could potentially result in injury if the hedges are not removed.

5. FINANCIAL MATTERS:

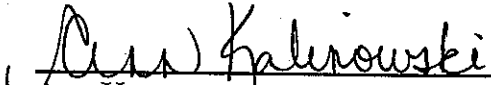
N/A

6. CONSULTATIONS:


Lee Anne Doyle, Executive Director/CBO
 Rob Vani, Manager of Inspections
 Dan Lunardi, Manager of Inspections
 Wira Vendrasco, Deputy City Solicitor
 Adam Szymczak, Senior Planner
 Mark Winterton, Acting Executive Director of Operations
 Monica Ciriello, Legal Student

7. CONCLUSION:

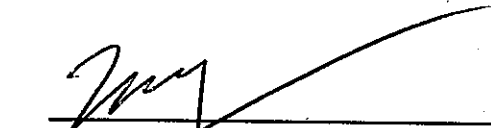
Administration is recommending amendments to the current Fence By-law to remove the enforcement of hedges unless they are within a *visibility triangle* that extends onto private property. Hedges found on public property are currently removed through enforcement by Public Works Administrative Inspectors under By-law 25-2010.




 ANN KALINOWSKI
 Manager of By-law Enforcement




 LEE ANNE DOYLE
 Executive Director/Chief Building Official



 MARIO SOTEGO
 City Engineer and Corporate Leader
 Environmental Protection and Transportation



 VALERIE CRITCHLEY
 Corporate Leader for Public Engagement
 and Human Resources/City Clerk



 HELGA REIDEL
 Chief Administrative Officer

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APPENDICES
 Appendix A – Survey of Fence and Hedge By-laws in 10 Ontario Municipalities
 Appendix B – August 25, 2013 Standing Committee Report

DEPARTMENTS/OTHERS CONSULTED:

NOTIFICATION :				
Name	Address	Email Address	Telephone	Fax
Craig Kondruk on behalf of: Alexander and Doreen Kondruk	11060 Riverside Dr. E. Windsor	congo51@hotmail.com	519-567-1296	
John Dignan	11414 Riverside Dr. E. Windsor	john.dignan@cogeco.ca	519-979-9700	

APPENDIX "A"

SURVEY OF FENCE/HEDGE BY-LAWS IN 10 ONTARIO MUNICIPALITIES

City	By-Law Number	Name of By-law	Regulate Fence/Hedge (rear/side)	Mention Hedge	Protection of Sightline/View
Brockville	194-94	Zoning by-law.	2m (5ft)	No mention of hedges.	View Corridor: to preserve uninterrupted views of the waterfront down certain roads (no tree planting)
Oakville	2002-034	Regulate Fences and Privacy Screens.	2.2m (7ft 4)	Mentioned within by-law.	N/A
Sarnia	44-1998	Fences	2.5m (8ft)	Mentioned within by-law.	N/A
St. Catherines	77-126	Regulate the Location and Height of Fences and Hedges	2m (6ft)	Mentioned within by-law.	N/A
Burlington	24-2003	Regulate fences and privacy screens.	2.0m (6ft)	No mention of hedges.	N/A
Niagara On the Lake	3408-99	Uniform Standards for Fences	2.0m (6ft)	Mentioned within by-law.	N/A
Oshawa	23-2014	Regulate Height of Fences & Natural Features	2.2m (7ft 4)	Mentioned as "natural feature" within by-law.	N/A
Kingston	2003-405	Regulate Fences	2.4m (8ft)	No mention of hedges.	N/A
London	PS-6	Regulating and Governing Fences	2.13m (7ft)	Hedge is included w/n fence.	N/A
Hamilton	10-142	Hamilton Fence Law	2.4m (7ft 10)	No. Hedge is included w/n "fence"	N/A

Item No. 2

THE CORPORATION OF THE CITY OF WINDSOR
Environment, Transportation & Public Standing Committee
Admin Report – Public Safety

**MISSION STATEMENT:**

"The City of Windsor, with the involvement of its citizens, will deliver effective and responsive municipal services, and will mobilize innovative community partnerships"

LiveLink REPORT #: 16735 AB2013	Report Date: August 16, 2013
Author's Name: Ann Kallnowski	Date of Standing Committee: September 25, 2013
Author's Phone: 519-255-6100 ext. 1931	Classification #:
Author's E-mail: akalinowski@city.windsor.on.ca	

TO: Environment, Transportation & Public Safety Standing Committee

SUBJECT: Housekeeping Amendments to By-law 170-2012 – A By-law to Prescribe the Height and Description of Fences in the City of Windsor

1. RECOMMENDATION: City Wide: Ward(s): _____

THAT By-law 170-2012 BE AMENDED to include the following changes:

- Remove *hedge* from the definition of fence under section 2.8 and add it only when used in a visibility triangle that extends onto private property.
- Remove *excluding a hedge* in section 4.1 (a) and (d)
- Remove *including a hedge* in section 4.1 (b) and (c)
- Remove the height limitation for hedges in rear yards of any lot located on the north side of Riverside Drive East between Strabane Avenue and Lakeview Avenue in section 4.2.

2. BACKGROUND:

On July 22, 2013 Councillor Gignac raised the following Council Question

CQ26-2013:

"Asks Administration to prepare a report to Council outlining possible amendments to By-Law 170-2012 pertaining to decorative hedges that don't impede traffic sightlines. Currently a number of decorative hedges that have been in place for many years are non-compliant with the 2012 amended by-law and proactive enforcement will begin August 1. I would ask that until the report returns to council enforcement stand down".

3. DISCUSSION:

On November 19, 2012 City Council approved By-law 170-2012, *A By-law to Prescribe the Height and Description of Fences in the City of Windsor*. The new Fence By-law took into account the enforcement of mature hedges over six months of age exceeding the maximum height allowance and fences and hedges causing sightline obstructions that were not part of the previous Fence By-law regulations.

In 2012 the Building Department Inspection Unit received a total of 159 fence complaints. Out of these complaints 28 or 17% were concerning hedges comprised of the following issues:

- Seven (7) for maintenance complaints regarding overgrowth onto City sidewalks.
- Seventeen (17) for sightline obstructions.
- Four (4) regarding height restrictions.

Administration reviewed Fence By-laws from Ottawa, London, Hamilton and Kitchener and found no definition for decorative hedges. London and Hamilton include the enforcement of hedges in their By-laws for visibility triangles only and Ottawa does not regulate hedges, bushes or trees under their Fence By-law at all. In view of the fact that the percentage of hedge complaints filed last year were minimal, and given that maintenance and sightline issues where trees, planters or shrubs are placed on City property are already enforced by By-law Enforcement Officers and Administrative Inspectors under By-law 3-2006, *Yard Maintenance and Anti-Littering* and By-law 25-2010, *A By-law to Provide for the Protection of Highways in Windsor*, Administration is recommending removing the reference of hedges from the Fence By-law except where found in a visibility triangle (Appendix A).

By-law 3-2006, Yard Maintenance and Anti-Littering

3.1.2 *Hedges and Landscaping*

"Every owner of property shall ensure that the hedges, plantings, trees and other landscaping on a property shall be maintained in a healthy condition, acceptable to the Officer".

"Private Property means property that is privately owned by a person and is not City property, School Board property, property of the Crown in Right of Ontario or of any of its agencies or property of the Crown in Right of Canada or any of its agencies".

By-law 25-2010, Protection of Highways in Windsor

"Except as otherwise permitted by this by-law, no person shall place, occupy or maintain or cause to be placed, occupied or maintained upon any highway, any personal property of any description, including but not limited to, signs, fences, decorative or landscape rocks or boulders, logs, raised planter beds, planters, trees or shrubs, or install any decorative landscape features whatsoever, including, but not limited to, statues, fountains, gravel, pavers or paving of any kind".

"Highway" means a street, road, avenue, parkway, alley, lane, median, sidewalk, trail, square, place, bridge, viaduct, or other public way under the jurisdiction of the Corporation.

By-law 170-2012, *A By-law to Prescribe the Height and Description of Fences in the City of Windsor* defines a visibility triangle as follows:

Visibility Triangle

A *visibility triangle* (refer to Appendix A) is formed by the intersecting curbs, or the edge of pavement where no curbs exist; the visibility triangle will not be dependent on the location of the property lines, but focused on sight lines at the intersecting roadway regardless of property line locations. This definition will allow for more fair and consistent enforcement of fence and hedge heights at roadway intersections.

Section 4, Residential Fence Regulations (appendix C) is attached and identifies the wording (e.g. hedges) that Administration is proposing to remove (boxed) and amend (underlined).

Enforcement

Enforcement under the current Fence By-law requires hedges to be maintained to a height no greater than 1.2 meters in a front yard, 1.2 meters in a rear yard of any lot on the north side of Riverside Drive East and 0.9 meters in a visibility triangle. Proactive and reactive enforcement will continue City wide as the hedges continue to grow.

Enforcement under the proposed amendments would require hedges to be maintained to a height no greater than 0.9 meters only if found to be in a visibility triangle that extends onto private property. Enforcement of hedges found on public property will be ordered to be removed by Public Works Administrative Inspectors under By-law 25-2010 therefore eliminating any health and safety concern and possibility of future complaints or violations.

4. RISK ANALYSIS

Hedges located at roadway intersections or anywhere on the public right of way can create visual obstructions for motorist's that could potentially result in injury if the hedges are not removed.

5. FINANCIAL MATTERS:

N/A


6. CONSULTATIONS:


Lee Anne Doyle, Executive Director/CBO
Wira Vendrasco, Deputy City Solicitor
Rob Vani, Manager of Inspections
Dan Lunardi, Manager of Inspections
Tony Ruffolo, Office Technologist, Public Works Department
Mark Winterton, Manager of contracts & Field Services
Andrew Lewis, Research Analyst Coordinator


7. CONCLUSION:

Administration is recommending amendments to the current Fence By-law by removing the enforcement of hedges unless found within a visibility triangle that extends into private property. Hedges found on public property are currently removed by Public Works Administrative Inspectors under By-law 25-2010.


Ann Kalinowski
Manager of By-law Enforcement


Lee Anne Doyle
Executive Director/Chief Building Official


George Wilcki
City Solicitor and Corporate Leader,
Economic Development and Public Safety


Mario Sonego
City Engineer and Corporate Leader
Environmental Protection and Transportation

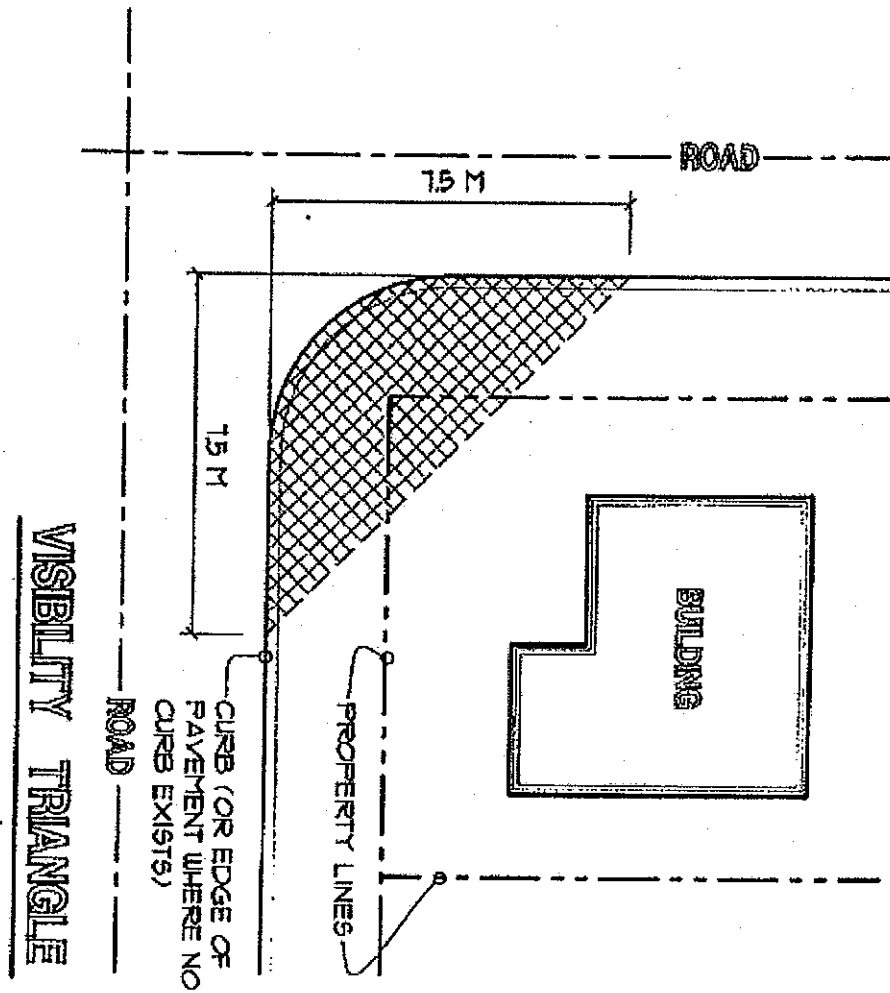

Helga Reidel
Chief Administrative Officer

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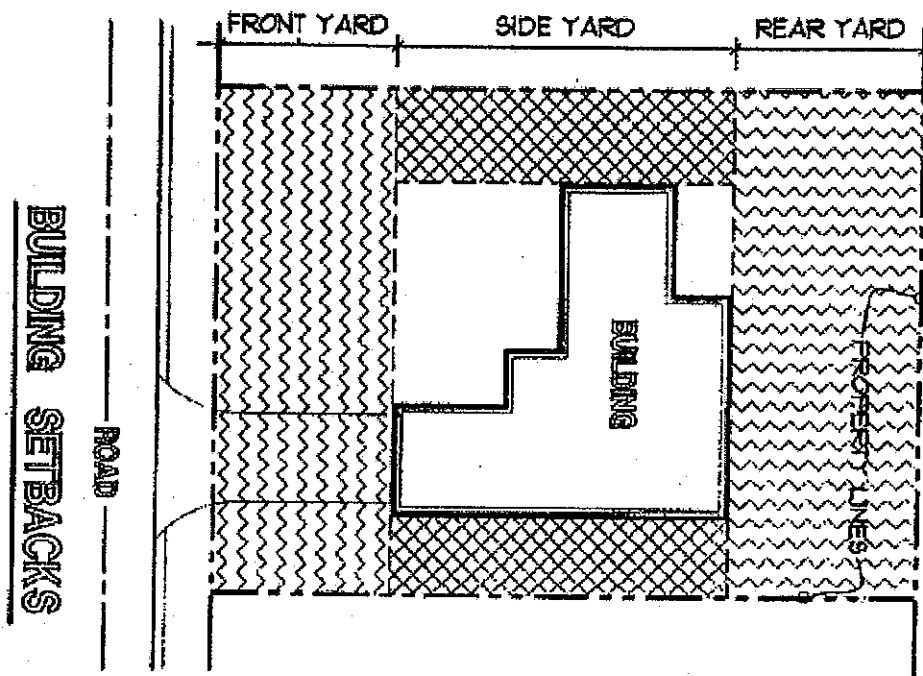
APPENDICES:
Appendix A - Visibility Triangle
Appendix B - Building Setbacks
Appendix C - By-law 170-2012 with amendments underlined and deletions boxed

DEPARTMENTS/OTHERS CONSULTED:
Name:
Phone #: 519 ext.

Appendix A



Appendix B



Appendix C

BY-LAW NUMBER 170-2012
A BY-LAW TO PRESCRIBE THE HEIGHT
AND DESCRIPTION OF FENCES IN THE
CITY OF WINDSOR

Passed the 19th day of November 2012

WHEREAS the *Council* of The Corporation of the City of Windsor has, pursuant to the Municipal Act, 2001, Section 10 as amended, the authority to pass By-laws for prescribing the height and description of *fences*;

NOW, THEREFORE, THE COUNCIL OF THE CORPORATION OF THE CITY OF WINDSOR HEREBY ENACTS AS FOLLOWS:

SECTION 1 TITLE

- 1.1 This By-law may be referred to as the Fence By-law.
- 1.2 By-law 160-2010 applies to fences used as a swimming pool enclosure.

SECTION 2 DEFINITIONS

In this By-law:

- 2.1 **CHIEF BUILDING OFFICIAL** means the Chief Building Official of the *City* or his/her designate.
- 2.2 **CITY** means The Corporation of the City of Windsor.
- 2.3 **CONSTRUCT** means to build and/or to permit to build or erect, alter, relocate or cause any material alteration to a *fence*. Without limiting the generality of the foregoing construct shall be taken to include any work in preparation to construct, and **CONSTRUCTED** has a corresponding meaning.
- 2.4 **COUNCIL** means the Council of the *City*.
- 2.5 **EFFECTIVE GRADE LEVEL** means the highest level of ground at a *fence* location within a horizontal distance of 0.5 m either side of the *fence*.

- 2.6 **FARM** means an agricultural operation as defined in the Farming and Food Production Protection Act, 1998 and includes such operation that is not carried on with the exception of gain but otherwise meets the definition of the Act.
- 2.7 **FRONT YARD** as defined in the applicable Zoning By-law.
- 2.8 **FENCE** means a barrier, guard, railing, a hedge or enclosure of any type *constructed, used, or intended to enclose and delineate property* and includes a screening fence as defined in the *Zoning By-law and any hedge used in a visibility triangle*. Structures designated by any By-law or municipal authority or agreement as sound barriers, or sound barrier walls, or any other structure governed under the Ontario Building Code are not *fences*. Earth berms or other natural or man-made similar topographic features are not *fences*.
- 2.9 **HEDGE** means a boundary formed by closely growing bushes or shrubs.
- 2.10 **HIGHWAY** means a highway as defined by the *Municipal Act* as amended from time to time.
- 2.11 **IN GOOD REPAIR** means in compliance with the Maintenance Standards in Section 7 of this By-law.
- 2.12 **OFFICER** means a *person* who has been assigned the responsibility of enforcing this By-law.
- 2.13 **OWNER** includes the registered owner and the *person* for the time being managing or receiving the rent of the land or premises in connection with which the word is used, whether on the *person's* own account or as agent or trustee of any other *person*, or who would receive the rent if such land and premises were let, and shall also include a lessee or occupant of the *property* who, under the terms of a lease, is required to repair and maintain the *property* in accordance with the standards of this By-law.
- 2.14 **PERSON** includes an individual, an owner, occupant, agent, contractor, tenant, firm, proprietorship, partnership, association, syndicate, trustee, corporation, department, bureau or mortgages.
- 2.15 **PROPERTY** means lands or structures on which a *fence* is located.
- 2.16 **REAR YARD** as defined in the applicable Zoning By-law.
- 2.17 **SIDE YARD** as defined in the applicable Zoning By-law.
- 2.18 **TEMPORARY BARRICADE** means a structure described in Section 6 of this By-law, *used* for the purposes of temporarily enclosing an excavation or other hazard.
- 2.19 **UNSAFE CONDITION** means any condition that in the opinion of the *Officer* is an immediate hazard to the health or safety of any *person(s)*.

- 2.20 *USE*, when used as a verb means anything done and/or permitted or allowed to be done by any *person* for the purpose of making use of any parcel of land, building, or structure or any part(s) thereof and includes the maintenance of anything done or erected in conjunction with those uses, lands, buildings, structures or part(s) thereof, and *USED* has a corresponding meaning.
- 2.21 *ZONING BY-LAW* means any Zoning By-law in effect for the *City*.
- 2.22 *VISIBILITY TRIANGLE* means the area within a triangle formed by measuring a prescribed distance along two specified intersecting lines and a third line joining the terminal points of the two measured lines.

SECTION 3 ENFORCEMENT

- 3.1 The *Chief Building Official* shall administer this By-law as amended.
- 3.2 This By-law shall be enforced by the *Chief Building Official* and any *Officer* so designated by the *Chief Building Official*.

SECTION 4 RESIDENTIAL FENCE REGULATIONS

- 4.1 No *person* shall on any property used for any residential purpose, *construct, use* or permit to be maintained a *fence* greater in height than:
- (a) 2.2 m from *effective grade level* in any *side yard* or *rear yard* excluding a hedge
 - (b) 1.2 m from *effective grade level* in any *front yard* including a hedge
 - (c) 1.2 m from the *effective grade level* in any *rear yard* of any lot situated on the north side of *Riverside Drive East* between *Strabane Avenue* and *Lakeview Avenue* including a hedge
 - (d) 2.5 m from *effective grade level* on any *property* boundary abutting any publicly owned walkway or *alley* as designated by a registered plan of subdivision, not adjacent to a road excluding a hedge
 - (e) 2.2 m from the walking surface of any raised deck or to the height of the eave, whichever is less.
 - (f) 0.9 m from *effective grade* within a *visibility triangle* as described in section 4.3.
- 4.2 The height limitation in Section 4.1 of this By-law shall not apply to decorative post caps and other similar features. The height limitation in Section 4.1 shall not apply to a hedge if the hedge is located in the side yard or rear yard unless the hedge is located in any rear yard of any lot situated on the north side of Riverside Drive East between Strabane Avenue and Lakeview Avenue.

- 4.3 Despite any other provisions of this By-law, in the case of a corner lot or a lot where the *highway* bends to form an angle not more than 135 degrees, no *person* shall *construct*, allow or permit to be maintained on any *property* a *fence* 0.9 m above the *effective grade level* within a *visibility triangle* formed by the intersecting curbs, or the edge of pavement where no curbs exist, or the projections thereof, and a straight line connecting them 7.5 m from their point of intersection, unless such *fence* is *constructed* of unobstructed chain link or metal pickets spaced no closer than 90 mm and complies with the height limitations identified in section 4.1.

SECTION 5 NON RESIDENTIAL FENCE REGULATIONS

- 5.1 No *person* shall on any *property* used for any non-residential purpose *construct*, use, or permit to be maintained a *fence* unless:
- (a) such *fence* has a maximum height not exceeding 3.0 m;
 - (b) such *fence* is not electrified except for a *fence* on a *farm* for the keeping of livestock or the protection of livestock or crops from animals provided that the *fence* meets the requirements of any applicable Canadian Standards Association Standard.
 - (c) such *fence* is located no more than 1.0 m of the nearest portion of any wall of an adjacent residential main building;
 - (d) such *fence* does not incorporate barbed or razor type wire in its construction unless that portion of *fence* which is made of barbed or razor wire is located no closer than 2.15 m above the *effective grade level* at any point.
 - (e) such *fence* is located at least 3.5m from the nearest curb, or the edge of pavement where no curb exist, where such *fence* abuts any existing public or private driveways, lanes, alleys, roadways or any other similar access area in any *side yard*, *rear yard* or *front yard*.
- 5.2 No *person* shall *construct*, allow or permit to be maintained, a *fence* consisting of single strand wire type construction unless it is so *constructed* so as to be readily visible to any *person* at all times and does not in any way create an *unsafe condition* to any *person*.
- 5.3 Despite sections 4.1 and 4.2 of this By-law, no *person* shall *construct* or use any *fence* on residential *property* along the property line of any commercial, industrial or institutional use in excess of the prescribed height in Sections 4.1 and locations as permitted in Section 5.1(e) of this By-law.
- 5.4 Every *owner* shall maintain their *fence* in *good repair* and in compliance with the Maintenance Standards, Section 7, of this By-law.

SECTION 6 TEMPORARY BARRICADE

- 6.1 Excluding any hoarding on the *highway*, no *person* shall *construct*, allow or permit to be maintained, a *temporary barricade* unless:
- a) it consist of a minimum 1.2 m high mesh *fence* having a mesh not greater than 38 mm, with a steel T-bar support post every 3.0 m maximum horizontal distance and a 9 gauge galvanized steel wire located at the top and bottom of such *fence*; or

- b) it is *constructed* of material that will provide an equivalent degree of safety and has been approved by the *Chief Building Official*.

SECTION 7 MAINTENANCE STANDARDS

- 7.1 Every *fence* shall be:
 - a) stable;
 - b) vertical;
 - c) *constructed* of materials of good quality;
 - d) suitable for the purpose, and
 - e) *constructed* and supported in a manner commensurate with the design of the entire *fence*.
- 7.2 Every *person* who *constructs, uses* or permit to be maintained a *fence* shall keep such *fence*:
 - a) in good repair;
 - b) in a safe and structurally sound condition;
 - c) free from accident hazards, and
 - d) protected by paint, preservative or other weather resistant material, except for hedge or wooden *fences* made of cedar, redwood or treated wood.

SECTION 8 ORDERS

- 8.1 An *Officer* who finds a contravention of this By-law or an *unsafe Condition* may make an Order directing compliance with this By-law and may require the Order to be carried out within such time as is specified in the Order.
- 8.2 The Order may be served on the *person* whom the *Officer* believes is contravening the By-law, by:
 - a) personal service;
 - b) prepaid mail to the *person's* address shown on the last revised assessment roll and may also be sent to the last address known to the *City* of the *owner* if it differs from that on the assessment roll. In which case the Order shall be deemed to have been served on the fifth day after mailing;
 - c) posting a copy of the Order on the *property*; or
 - d) any combination of the above as the *Officer* deems necessary.
- 8.3 Every Order delivered, sent or posted shall identify the *property* by street number and name, and/or legal description.
- 8.4 Power of Entry re: Inspections
Pursuant to section 436 of the Municipal Act, the *Chief Building Official* or an *Officer* may enter on *property* at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
 - a) this By-law;
 - b) an Order made under this By-law.
- 8.5 Inspection Powers
For the purposes of an inspection under this section, an *Officer* may:

- a) require information from any *person* concerning a matter related to the inspection; and
- b) alone or in conjunction with a *person* possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

8.6 Inclusion

Every Order delivered, sent, posted or published shall specify that if the *owner* defaults in doing the thing(s) required to be done under this By-law by the date specified in the Order, the *Chief Building Official* may take action to cause the *City* to do the thing(s) required to be done as specified in the Order and that the *City* may recover the costs of doing the thing(s) required to be done from the *owner* and that the *City* may recover the costs by action or by adding the costs to the tax roll and collect them in the same manner as taxes.

8.7 Entry onto property

Where the *City* proceeds with action under s. 10.1 of this By-law, the *Chief Building Official* or designate, or an agent appointed by the *City* may enter onto the *property* accompanied by any *person(s)* under his or her direction and with the appropriate equipment as required to bring the *property* into compliance with this By-law.

SECTION 9 OFFENCES

9.1 Offence

Every *person* who contravenes any of the provisions of this By-law is guilty of an offence and upon conviction is liable to a fine and any other penalties as provided for in the Municipal Act, as amended.

SECTION 10: NON-COMPLIANCE WITH ORDER

10.1 If an *owner* or *person*, as the case may be, fails to comply with an Order issued under section 8.1, the *Chief Building Official* may take action to do the thing(s) required to be done as specified in the Order at the expense of the *owner* or *person* directed or required to comply with the Order.

10.2 Recovery of Expense

If the *City* takes action to do the thing(s) required to be done as specified in the Order, the costs of such action may be added to the tax roll and collected in the same manner as property taxes.

10.3 No *person* shall hinder or obstruct, or attempt to hinder or obstruct;

- a) Any *Officer* in the performance of a duty under this By-Law, or
- b) Employees or Agents authorized to take action to do the thing(s) required to be done as specified in the Order.

SECTION 11 VALIDITY AND SEVERABILITY

- 11.1 In the event that any portion of this By-law shall be deemed to be invalid, illegal or unenforceable, it shall not affect the validity, legality or enforceability of any other portion of this By-law.

SECTION 12 REPEAL AND TRANSITION

- 12.1 By-law Number 266-2004 and all amendments thereto are hereby repealed.

SECTION 13 EFFECTIVE DATE

- 13.1 This By-law shall come into force and take effect on the day of the final passing thereof.

EDDIE FRANCIS, MAYOR

CITY CLERK

To the members of the Committee:
Councillors Gignac, Jones, Halberstadt,, Payne and, Valentinis

I am out of town next week and cannot attend the meeting of the committee next Wednesday
I am writing to ask for your support for me and my neighbours on the Housekeeping Amendment
Amendment to Prescribe the Height of Fences
Some of my neighbours will appear at the meeting

We are opposed to the proposed recommendation of Administration to remove the enforcement of
hedges unless found within a visibility triangle

I have lived in my home since 1980 and we have had a very nice "campus" of lawns along many
properties

I consider the lake side of my property to be my front yard

A few years ago two neighbours had a disagreement and subsequent to their dispute, one of the
neighbours planted a line of cedars from his house right to the breakwall

This line of cedars is now 20 feet high in some of places and completely blocks the view of all neighbours
to the other yards

It is a terrible eyesore in a line of well kept yards

It is so very disturbing that an altercation between two neighbours can block a view which everyone
enjoyed for years

My major concern is that this change to the bylaw could potentially result, if there are further disputes with
other neighbours, could result in many lines of trees being planted along many properties

thank you
Jane Boyd
11660 Riverside Drive East
Windsor N8P 1A6

**CITY OF WINDSOR
COUNCIL SERVICES**

OCT 20 2014

OCT 22 2014

**ADDITIONAL
INFORMATION**

ITEM NO. 1

RECEIVED