

Windsor, Ontario October 21, 2013

REPORT NO. 159 of the  
ENVIRONMENT, TRANSPORTATION & PUBLIC SAFETY  
STANDING COMMITTEE  
of its meeting held September 25, 2013

**Present:** Councillor J. Gignac  
Councillor A. Halberstadt  
Councillor R. Jones  
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 **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 administration **BE DIRECTED** to prepare a draft by-law for Council's consideration regarding the protection of site lines for residential properties located on the North side of Riverside Drive East.

Carried.

Livelihood 16735 AB2013

Clerk's Note: The administrative report authored by the Manager of By-law Enforcement dated August 16, 2013 entitled "*Housekeeping Amendments to By-law 170-2012 - A By-law to Prescribe the Height and Description of Fences in the City of Windsor*" is **attached** as background information.



CHAIRPERSON



DEPUTY CLERK

**NOTIFICATION:**

Name	Address	Email Address	Telephone	FAX

**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"*

<b>LiveLink REPORT #: 16735 AB2013</b>	<b>Report Date: August 16, 2013</b>
<b>Author's Name: Ann Kalinowski</b>	<b>Date of Standing Committee: September 25, 2013</b>
<b>Author's Phone: 519-255-6100 ext. 1931</b>	<b>Classification #:</b>
<b>Author's E-mail: <a href="mailto:akalinowski@city.windsor.on.ca">akalinowski@city.windsor.on.ca</a></b>	

**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".*

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.

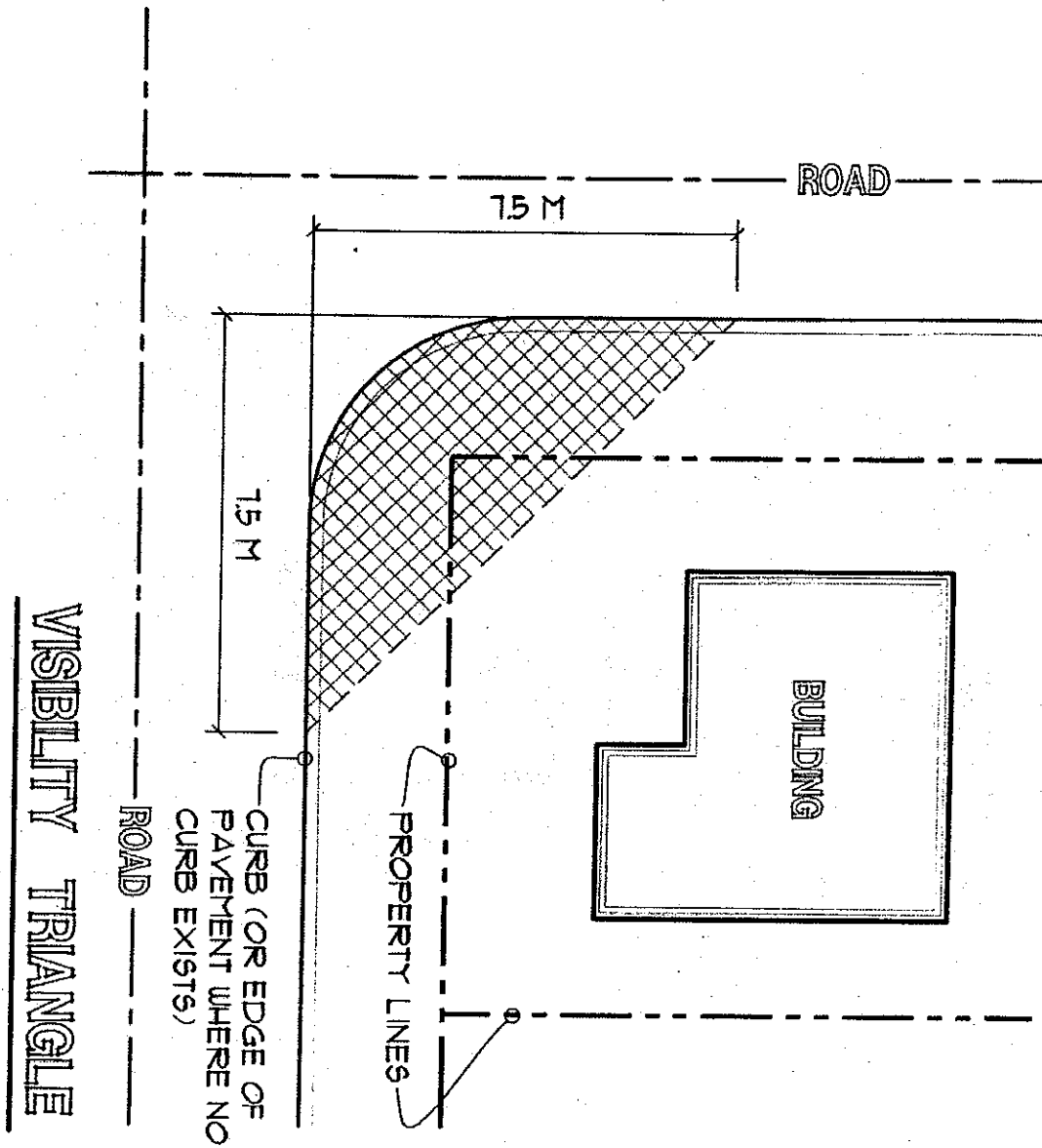
#### 5. FINANCIAL MATTERS:

N/A

#### 6. CONSULTATIONS:

Lee Anne Doyle, Executive Director/CBO  
Wira Vendasco, 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

Appendix A



Appendix C

BY - L A W N U M B E R 170-2012  
A BY-LAW TO PRESCRIBE THE HEIGHT  
AND DESCRIPTION OF FENCES IN THE  
CITY OF WINDSOR

Passed the 19<sup>th</sup> 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*.

- 2.20 **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.

- 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 a 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:

- 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**