

**REPORT NO. 81 of the
ENVIRONMENT, TRANSPORTATION & PUBLIC SAFETY
STANDING COMMITTEE**
of its meeting held October 24, 2012

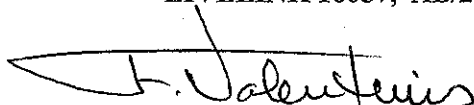
Present:
Councillor J. Gignac
Councillor A. Halberstadt
Councillor R. Jones
Councillor H. Payne
Councillor F. Valentinis

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

Moved by Councillor Halberstadt, seconded by Councillor Payne,
THAT the report of the Manager of Inspections regarding a new Fence By-law **BE RECEIVED** and that City Council **ENACT** By-law 170-2012 and **THAT** Fence By-law 266-2004 **BE REPEALED**.
Carried.

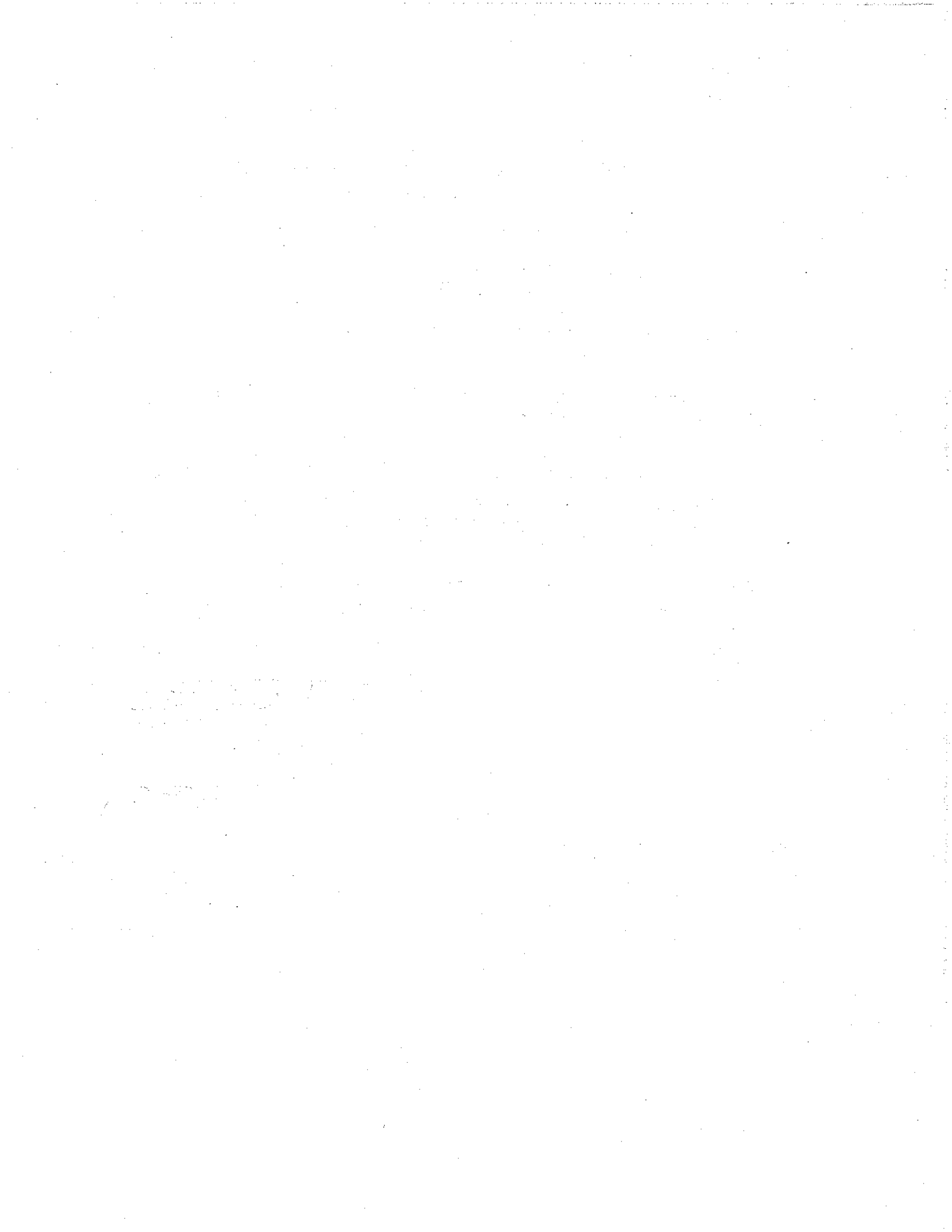
Clerk's Note: The report authored by the Manager of Inspections dated September 7, 2012 entitled "Proposed New Fence By-Law" is attached as background information.

LIVELINK 16057, AB/2012


CHAIRPERSON


DEPUTY CLERK

NOTIFICATION:				
Name	Address	Email Address	Telephone	FAX
Windsor Fence Co. Ltd				258-0076
Simpson's Fence Ltd.				727-8759
Creative Homescapes				737-1132



THE CORPORATION OF THE CITY OF WINDSOR
Environment, Transportation & Public Safety Standing Committee -
Administrative Report

**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 #: 16057 AB2012	Report Date: September 7, 2012
Author's Name: Rob Vani, Manager of Inspections	Date to Standing Committee: October 24, 2012
Author's Phone: 519 255 6267 ext. 6834	Classification #:
Author's E-mail: rvani@city.windsor.on.ca	

To: Environment, Transportation & Public Safety Standing Committee

Subject: Proposed New Fence By-Law

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

- I. That the report of the Manager of Inspections regarding a new Fence By-law **BE RECEIVED** and that City Council enact By-Law_____;
- II. That Fence By-law 266-2004 **BE REPEALED**.

EXECUTIVE SUMMARY:

N/A

2. BACKGROUND:

In 2011 the Building Department committed to review the current Fence By-law which has been in effect since August 2004 in order to update the By-law and transition enforcement from the Building Inspectors to the By-law Enforcement Officers. With this review also came an opportunity to address concerns raised with respect to enforcement of mature hedges over six months of age that exceed the maximum height allowance under the current By-law, and fences and hedges causing site line obstructions at properties located at roadway intersections. There was also a need to update the Fence By-Law to reflect legislative changes and provide clarity to the By-law in terms of maintenance requirements.

3. DISCUSSION:

Currently, the enforcement of fences and hedges not enclosing a swimming pool on private property is enforced under Fence By-law 266-2004. The Building Department investigated 163 fence/hedge complaints in 2011, which resulted in 21 Orders to Comply, 42 re-assigned to other departments (e.g. Public Works), and 97 were not actionable due to a lack of violation. The current Fence By-law lacks the authority to deal with fences and hedges erected or growing that obstruct sight lines at roadway intersections on the public right-of-way property; it only has jurisdiction on private property, which accounts for the low number of Orders. Fences and hedges obstructing sight lines at roadway intersections on the public right-of-way are currently being enforced by Public Works Administrative Inspectors. The Building Inspectors investigate and enforce complaints only for the portion of hedge and fence on private property, and re-assign enforcement of the portion of fence and hedge on public property to Public Works Administrative Inspectors. Having two departments investigate and enforce essentially the same fence or hedge creates inefficiencies and confusion for the general public over enforcement jurisdiction. The proposed Fence By-law looks to deal with the fragmented enforcement of fences and hedges obstructing sight lines at roadway intersections by consolidating enforcement on both private and public property within the *visibility triangle* under one By-law.

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.

Enforcement of hedges and fences in the *visibility triangle* at roadway intersections will be transferred from the Building Inspectors on private property and Administrative Inspectors on public property to the By-law Enforcement Officers in the Building Department. All fences and hedges on private property will transfer from Building Inspectors to By-law Enforcement Officers in the Building Department. This change in enforcement will reduce the confusion of enforcement jurisdiction for the general public, provide more consistent enforcement of fences and hedges, and streamline responses to requests for service.

The proposed Fence By-law will also address the maintenance of mature hedges in required front yards. The current Fence By-law essentially does not limit the height of hedges that have been in existence for more than six months. Administration proposes to restrict the height of all hedges in the required frontyard (except for those at roadway intersections) to a maximum of 1.2m (4'-0") regardless of the age of the hedge (refer to Appendix B). This change will address the majority of the type of fence complaints received by the Building Department which are not actionable under the current By-law.

Administration has conducted extensive research of similar municipal Fence By-laws and best practices across Ontario, including but not limited to Ottawa, London, Hamilton and Kitchener. The research material has been reviewed, and where appropriate, incorporated in the new Fence By-law.

4. RISK ANALYSIS:

Source of Risk:

The height of fences and hedges located at roadway intersections (*visibility triangles*) that exceed acceptable heights create visual obstructions for motorists possibly resulting in potential injury or death to pedestrians, cyclist and operators/passengers of motor vehicles in the event of collisions.

Cross-Corporate Impact Risk:

The proposed changes to the Fence By-law will achieve positive outcomes for the community at large when enforcing visibility issues at roadway intersections by providing clearer enforcement parameters at these locations.

The current fragmented framework of enforcement across corporate departments for fences and hedges at intersections creates an impact on more than one corporate department; along with inconsistent enforcement practices across City departments. Re-aligning all enforcement of fences and hedges at roadway intersections under one Fence By-law and one enforcement division will ensure consistent enforcement process control thereby reducing the level of risk exposure to the City.

Resource Risks:

Enforcement of the new Fence By-law will be undertaken by the Building Department By-Law Enforcement Division. There will be sufficient staff resources available to successfully implement the Fence By-Law. Shifting enforcement of fences and hedges both on private and public property in the *visibility triangle* at roadway intersections to By-Law Enforcement will eliminate fragmented enforcement.

5. FINANCIAL MATTERS:


N/A

6. CONSULTATIONS:

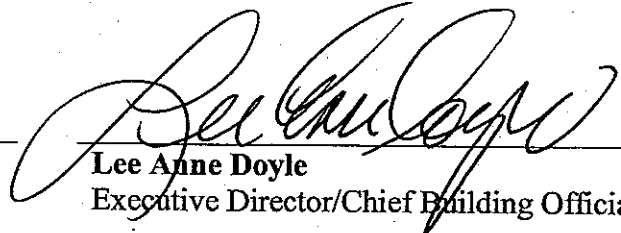
Ann Kalinowski, Manager of By-Law Enforcement, Building Department
Al Peach, Manager of Inspections, Building Department
Tony Ruffolo, Office Technologist, Public Works Department
Adam Szymczak, Senior Planner, Planning Department
Wira Vendrasco, Senior Legal Counsel, Legal Department
Lee Anne Doyle, Executive Director/Chief Building Official

7. CONCLUSION:

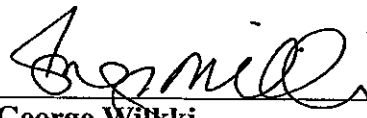
Administration recommends that Council approve the proposed Fence By-Law, and REPEAL By-law 266-2004. The Proposed new Fence By-Law will streamline enforcement and provide improved clarity of the regulations to the public.



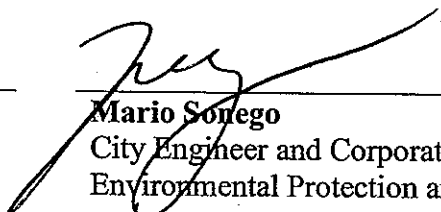
Rob Vani
Manager of Inspections



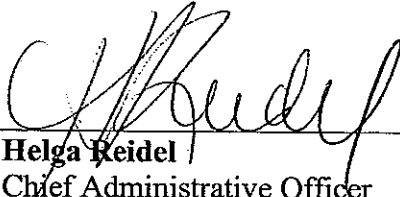
Lee Anne Doyle
Executive Director/Chief Building Official



George Wilkki
City Solicitor and Corporate Leader
Economic Development and Public Safety



Mario Sorego
City Engineer and Corporate Leader
Environmental Protection and Transportation



Helga Reidel
Chief Administrative Officer

RV

APPENDICES:
Appendix A Visibility Triangle
Appendix B Building Setbacks

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

NOTIFICATION :

Name	Address	Email Address	Telephone	FAX
Windsor Fence CO. Ltd.	1581 Parent Ave.		519-258-2488	519-258-0076
Simpson's Fence Ltd.	464 Jutras Dr. N Tecumseh, On		519-727-8754	519-727-8759
Creative Homescapes	2145 Hwy #3 Oldcastle, On	info@creativehomescapes.ca	519-737-1590	519-737-1132

