

TO:	CHAIR AND MEMBERS PUBLIC SAFETY COMMITTEE PUBLIC PARTICIPATION MEETING MARCH 6th , 2012
FROM:	G. KOTSIFAS, P. ENG. DIRECTOR OF BUILDING CONTROLS AND CHIEF BUILDING OFFICIAL
SUBJECT:	FENCE BY-LAW AMENDMENTS

RECOMMENDATION

That, on the recommendation of the Director of Building Controls and Chief Building Official the attached proposed By-law **BE INTRODUCED** at the Municipal Council meeting of, March 20th, 2012 to amend the Fence By-law to for the purposes of addressing privacy screening and private recreation related fences.

BACKGROUND

The existing fence by-law was enacted on June 9th, 2008 and is enforced by Municipal Law Enforcement Services on a complaint basis. Over the course of the past three years Municipal Law Enforcement Officers have encountered situations related to the fence by-law that are not addressed within the current by-law regulations.

ANALYSIS

1) Privacy Screening

It has been recognized that privacy screening and fencing are used for different purposes and therefore require distinctive regulations. For example, many private properties contain screens within the yard surrounding hot tubs or deck areas. The proposed amendment would allow privacy screens at a maximum of 3 metres in height.

2) Privately owned tennis courts on residential lots

The use of fencing to enclose privately owned residential tennis courts should be differentiated from regular fencing. The current regulations do not address private tennis courts. The proposed amendment would allow fencing of private tennis courts to exceed 2 metres in height under certain conditions.

CONCLUSION

The implementation of the proposed regulations will allow more flexibility to residential property owners in situations of desired privacy and personal recreation.

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PREPARED BY:	PREPARED & REVIEWED BY:
HEATHER CHAPMAN COORDINATOR, MUNICIPAL LAW ENFORCEMENT SERVICES	OREST KATOLYK MANAGER, LICENSING AND MUNICIPAL LAW ENFORCEMENT SERVICES
PREPARED AND RECOMMENDED BY:	REVIEWED & CONCURRED BY:
G. KOTSIFAS, P.ENG. DIRECTOR OF BUILDING CONTROLS AND CHIEF BUILDING OFFICIAL	JOHN BRAAM, P.ENG. ACTING EXECUTIVE DIRECTOR, PLANNING, ENVIRONMENTAL & ENGINEERING SERVICES & CITY ENGINEER

Cc: Peter Kokkoros, P.Eng., Manager of Plans Examination & Deputy Chief Building Official
 Drago Macar, Mechanical Engineer
 Janice Page, City Solicitor's Office

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2012

By-law No.

A By-law to amend By-law No. PS-6, as amended, entitled "A by-law provide for regulating and governing fences in the City of London.

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS subsection 10(1) of the *Municipal Act, 2001* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS paragraph 10 of subsection 10(2) of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting Structures, including fences and signs;

AND WHEREAS section 98 of the *Municipal Act, 2001* provides that a municipality may provide that the *Line Fences Act* does not apply to all or any part of the municipality, but despite such by-law being passed, section 20 of the *Line Fences Act* continues to apply throughout the municipality;

AND WHEREAS it is deemed expedient to exclude the City from the provisions of the *Line Fences Act*, R.S.O. 1990, c.L.17, as amended;

NOW THEREFORE the Council of The Corporation of the City of London enacts as follows:

1. To amend section 1.1 of Part 1 by deleting the definitions of "height" and "yard" replacing them with:

"height" means the distance measured from the effective ground level where the fence posts are embedded to the top of the said fence or posts; provided that where a fence is located on top of a retaining wall, "height" means the vertical distance measured between the top of the retaining wall and the highest point of the fence or posts;

"yard" means an open, uncovered space on a lot appurtenant to a building and unoccupied by buildings or structures;

2. To amend section 1.1 of Part 1 by adding the definition for "privacy screen" as follows:

"privacy screen" means a visual barrier used to shield any part of a yard from view from any adjacent parcel or highway;

3. To amend section 4.1 of Part 4 by adding subsection (d) as follows:

4.1 Height - location

(d) the provisions of subsection (a) do not apply to a fence erected to enclose a privately owned outdoor tennis court on residential property, provided the fence is of chain link construction and located no closer to a property line than 2.0 metres.

4. To amend the by-law by adding Part 5 as follows:

Part 5

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PRIVACY SCREENS

5.1 Height - location

A privacy screen may be erected in a side yard or rear yard, if:

- (a) it is more than 4.5 metres (14 ft. 9 inches) from the street line; and
- (b) it is more than 1.2 metres (48 inches) from any side lot line, provided, however, that where the privacy screen is located so as to provide a visual barrier between dwelling units divided by a common wall, such screen may be placed closer along the common property boundary, and;
- (c) it is more than 1.2 metres (48 inches) from the rear lot line; and
- (d) the privacy screen is not more than 12 metres (39 ft. 4 inches) in total length, and no single individual length is longer than 5 metres (16 feet 5 inches); and
- (e) the privacy screen is not more than 3 metres (9 feet 10 inches) above effective ground level.

6. To amend By-law PS-6 by renumbering the existing Parts 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 to become Parts 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19 respectively, and to renumber the sections within each Part accordingly.

7. This by-law shall come into force and effect on March 20th, 2012.

PASSED in Open Council , 2012

Joe Fontana
Mayor

Catharine Saunders
City Clerk

First reading -
Second reading -
Third reading -