



Committee of the Whole Report

Report Number:	LGL2023-001
Meeting Date:	September 12, 2023
Title:	Proposed Amendments to Yard Clean and Clear By-law to Permit Long Grass and Native Plants in Urban Areas
Description:	Proposed By-law amendments to allow for high grass and weeds in urban areas to improve resiliency to climate change and foster habitat for pollinators
Author and Title:	Robyn Carlson, City Solicitor

Recommendations:

That Report LGL2023-001, Proposed Amendments to Yard Clean and Clear By-law to permit Long Grass and Native Plants in Urban Areas, be received;

That proposed amendments to the City's Yard Clean and Clear By-law 2014-026, as amended, as outlined in Attachment A, be advanced to Council for approval; and

That these recommendations be brought forward to Council for consideration at the next Regular Council Meeting.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

The City currently permits weeds and grass exceeding 8 inches in height in areas zoned or designated Open Space, Environmental Protection, Agricultural, Rural, Waterfront, Prime Agricultural, and in areas within 30 metres of a waterfront, wetland, water body or watercourse. This is set out in the City's Yard Clean and Clear By-law 2014-026, which regulates vacant lots as well as yards.¹

One of the City's three strategic priorities is a "Healthy Environment". In support of this strategic priority, the City adopted a Healthy Environment Plan in 2019.

The City was officially recognized as a Bee City by Bee City Canada in July 2017. The City of Kawartha Lakes became the 7th Bee City in Canada, and the 3rd in Ontario, following Toronto and Stratford. Pollinator-friendly projects within the City are listed at: <https://www.kawarthalakes.ca/en/living-here/bee-city.aspx>.

The City does not permit weeds and grass exceeding 8 inches in height in urban residential or commercial² areas that are not within 30 metres of a waterfront or wetland area. In the urban area of the Town of Lindsay only, and nowhere else in the City, owners of private property are required to maintain the grass on the adjacent City-owned property (the boulevard) to no more than 8 inches in height, pursuant to section 4.02 of By-law 97-136 (a copy of which is attached as Attachment F).

The purpose of this report is to introduce proposed amendments to the Yard Clean and Clear By-law to expand permissions allowing for long grasses and non-noxious weeds on private property in urban areas, and to recommend housekeeping (minor) amendments to the Yard Clean and Clear By-law.

Rationale:

Proposed Amendments to Yard Clean and Clear By-law

The proposed by-law to amend the Yard Clean and Clear By-law is set out at Attachment A. At Attachment B is a track change version of the By-law, inclusive of the proposed amendments. Section 4.01 of the By-law makes it an offence for an owner of private property to permit debris to accumulate on their property. "Debris" is defined at subparagraph 1.01(e)(xi) as including weeds and grass exceeding 8 inches in height. The proposed removal of this subparagraph has the effect of allowing weeds,

¹ See the definition of "Debris" at paragraph xi, and the note of exemption to that provision.

² Including industrial and institutional areas.

grass exceeding 8 inches in height and encourages naturalized garden areas in urban areas.

This will allow for more pollinator-friendly projects within urban areas within the City. Plant diversity and naturalization will also allow for increased carbon and rainwater capture, making urban areas more resilient to climate change.

Allowing for and encouraging long grass and naturalized garden areas is a change in mindset about what is viewed as an acceptable yard standard in urban areas. Naturalized garden areas are being permitted in many municipalities in Ontario. Along with more effective pollination, the ecosystem biodiversity also creates seeds and fruits that are part of an important food source for birds and ground animals. Naturalized gardens slow erosion and the overland water run off that enters into municipal drains and catch basins.

Urban property owners who transition to a naturalized garden area will also use less pesticides, herbicides, water and fuel to maintain their properties.

This by-law is to be read in conjunction with the Weed Control Act, which prohibits noxious weeds. The City's Municipal Law Enforcement Division responds to complaints under the Weed Control Act. A copy of that Act is attached as Attachment D.

In addition to prohibitions set out in the Yard Clean and Clear By-law, which deals with private property, is the Encroachment By-law 2018-017, which is attached as Attachment E. Schedule A of that By-law allows for owners of private property to place vegetation in the City-owned boulevard adjacent to their property, with certain restrictions (i.e. to allow for continued visibility for motorists and pedestrians of the City roadways and sidewalks).

The Encroachment By-law also prevents vegetation on private property from encroaching into adjacent sidewalks, and – in the case of corner lots - from interfering with sight lines for vehicular traffic.³

Town of Lindsay Boulevard By-law 97-136

Pre-amalgamation, the Town of Lindsay, pursuant to By-law 97-136, required owners of private property in Lindsay to maintain the grass on the adjacent City-owned property (the boulevard) to no more than 8 inches in height, pursuant to section 4.02 of that by-

³ See section 11.02 of By-law 2018-017

law (a copy of which is attached as Attachment F). By-law 97-136 became a By-law of the City of Kawartha Lakes upon amalgamation. The City's other urban areas, including Fenelon Falls and Bobcaygeon, do not have similar by-laws. By-law 97-136 was never amended nor repealed, and accordingly the City is currently treating Lindsay's boulevards differently from the balance of the municipal boulevards. More specifically, in Lindsay, private property owners are responsible for maintaining the grass on the City-owned boulevard adjacent to their property, whereas in Fenelon Falls and Bobcaygeon, and in the balance of the municipality, they are not.

Clause-by-Clause Review of Balance of Proposed Amendments to the Yard Clean and Clear By-law

The balance of the proposed amendments to the Yard Clean and Clear By-law are of a housekeeping (minor) nature, and are not related to encouragement of climate resiliency. As the Yard Clean and Clear By-law is being brought forward for consideration, Staff consider this an opportune time to review it and amend it for various reasons, as further delineated below.

The definition of "Debris", which is prohibited on privately-owned property, has been amended to remove reference to "unlicensed items" and "shipping containers". Shipping containers are now regulated as buildings for the purposes of the Building Code Act and Zoning By-law. "Vehicle parts" in addition to "inoperative vehicles" has been added.

The proposed changes at section 2.01(a) & (b) are not substantive. These two paragraphs were consolidated for brevity, while maintaining the intent of the section. Similarly, sections 3.01 and 3.02 have been consolidated.

The minimum time for compliance with a notice (to come into compliance) has been reduced from 14 days to 3 days⁴, to reflect the experience of Municipal Law Enforcement as to reality that – in many situations – 14 days is too long for the public to wait for compliance. For example, if garbage is strewn across a front lawn and the property owner receives notice to clean it up, the neighbours can now expect that it will take only 3 days for compliance to be achieved, rather than 14 days.

The proposed added text at sections 2.04 & 2.05 allow for delivery of a notice of non-compliance with the by-law by electronic mail, in addition to the current provisions by way of personal delivery, letter mail, facsimile, or onsite posting. This addition reflects the modern reality of how much communication is conducted and has the added benefit

⁴ Section 2.02(c)

of reducing resource use (paper). The verification methods for electronic mail (at section 2.05) are similar to what already exists for facsimile delivery.

Section 4.06 deals with progressive sentencing, to allow for higher fines for repeat offences at a certain location. This section is proposed to be amended to clarify that repeat offences within a 2 year period will be considered. This better reflects the intent of the provision.

Given the passage of time since the last amendment to the passage of the by-law in 2014 (8 years), the transition provision at section 7.02 is no longer required. Necessary amendments to former section 7.03 (new section 7.02) have been recommended. Moreover, in order to be accessible and inclusive, the City has removed all underlining (which prevents computer-reading for the blind from being able to read the by-law) and has replaced gendered pronouns (i.e. "he" or "she") with neutral pronouns (i.e. "they").

Other Alternatives Considered:

None.

Alignment to Strategic Priorities

This report aligns with the City's strategic priority of a Healthy Environment and is in support of the City's Council-adopted Healthy Environment Plan 2019.

Financial/Operation Impacts:

In 2021, Municipal Law Enforcement received 10 complaints related to long grass. Of these 10 complaints, 2 occurred in Fenelon Falls, 1 in Bobcaygeon⁵ and 7 in Lindsay⁶. Municipal Law Enforcement has the equipment and staffing capacity to continue to respond to encroachment and safety concerns with boulevard grass and private grass.

The Municipal Law Enforcement Office, which currently enforces the Weed Control Act, will now be responding to some of the former long-grass complaints as allegations of violation of the Weed Control Act. In 2021, there were 7 noxious weed complaints.

Community Services cuts grass in parks, at public boat launches, and at City-owned and operated facilities, such as arenas, community halls, and City administrative offices. This will continue to occur. There will be no impact to this Department.

Public Works cuts grass adjacent to roadways in rural areas, for road safety purposes, but lacks the equipment to cut boulevard grass in urban areas. There will be no impact to this Department.

If additional costs or increased staffing pressures are subsequently identified as a result of this amendment being passed, it is recommended that these costs and staffing implications be tracked and referred to the 2025 Operating Budget.

Attachments:

Attachment A – Proposed Amendments to By-law 2014-026



By-law Amending
By-law 2014-026 - Att:

⁵ Mill Street, Bobcaygeon: Vacant private property, so private property not a “yard” and subject to the Yard Clean and Clear By-law. Adjacent City-owned boulevard maintenance not the responsibility of the adjacent private property owner per By-law 97-135, which only applies to Lindsay.

⁶ One of these complaints originated in the Logie Street boulevard in the area of Holtom Street. City Staff decided to allow long grasses and naturalized area to remain, in order to promote pollinator habitat.

Attachment B – By-law 2014-026, inclusive of proposed amendments, shown in track change format



2014-026
Consolidated Clean

Attachment C – By-law 2014-026, inclusive of proposed amendments, in clean format



2014-026
Consolidated Clean

Attachment D – Weed Control Act



Attachment D - Weed
Control Act.pdf

Attachment E – By-law 2018-017 Encroachment By-law



LGL2023-0XX Long
Grass By-Law Attachm

Attachment F - By-law 97-136 Lindsay Boulevard Use and Maintenance



Lindsay 1997-136
Use and Maintenanc

Attachment G – Minutes from the Kawartha Lakes Environmental Advisory Committee, wherein these proposals were reviewed.



KLEAC Minutes Feb
1, 2023.pdf

Attachment H – Results from Jump In survey to the Public



Building Pollinator
Habitats Survey Resu

Consultations:

Manager of Municipal Law Enforcement

Director of Public Works

Director of Community Services (Buildings and Property)

Director of Development Services

Manager of Parks & Recreation

Kawartha Lakes Environmental Advisory Committee

Manager of Communications

Public via Jump in Survey

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