



Council Report

Report Number: LGL2024-004
Meeting Date: July 23, 2024
Title: **Proposed By-law Amendment to Permit Long Grasses and Native Plants in Urban Areas**
Description: Proposed By-law amendments to allow for long grasses and native plants in urban areas to improve rainwater uptake and foster habitat for pollinators
Author and Title: Robyn Carlson, City Solicitor

Recommendations:

That Report LGL2023-004, **Proposed By-law Amendment to Permit Long Grasses 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 approved by Council; and

That the necessary amending By-Law be brought forward to Council for consideration.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

The City currently permits native plants (sometimes referred to as “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.^{1,2}

The City does not permit native plants and grass exceeding 8 inches in height in urban residential or commercial³ 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).

On September 26, 2023, Council considered 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. Council made the following resolution.

CR2023-443

Moved By Councillor Warren

Seconded By Deputy Mayor Richardson

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 referred back to Staff for review and report back by the end of Q4, 2023 with comments from Economic Development and Kawartha Conservation.

Carried

The purpose of this report is to bring the proposed by-law amendments back to Council for its consideration, inclusive of comments from Economic Development and Kawartha Conservation (see page 4 of the report).

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

² The Weed Control Act prohibits noxious weeds. A copy of that Act is attached as Attachment D.

³ Including industrial and institutional areas.

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 native plants, non-noxious weeds, and grasses exceeding 8 inches in height and encourages naturalized, pollinator-friendly, gardens in urban areas.

Allowing for and encouraging 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. Toronto (2021) and Prince Edward County (2023) allow for naturalized front yards, however, they don't allow turfgrass to naturalize by allowing turfgrass to be naturally pollinated with native species. These by-laws would be good comparisons for the proposal in Kawartha Lakes.

Naturalization would be a more rapid process in Toronto/PEC resulting in the same end look, as it would require a homeowner to remove turfgrass to soil and then allow the native species (i.e. weeds) to pollinate in that location.

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.⁴

⁴ See section 11.02 of By-law 2018-017

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-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.

Comments from the Kawartha Region Conservation Authority

The Kawartha Region Conservation Authority is of the opinion that the recommendation herein should have a positive environmental (pollinator and water quality) impact, but could result in the proliferation of non-native / invasive species. See Attachment K, for the Conservation Authority's complete comments.

Comments from the Economic Development Division, City of Kawartha Lakes

Staff from the Economic Development Division at the City of Kawartha Lakes reached out to the City of Toronto and to Prince Edward County, to determine the effect of urban naturalization on economic development. According to both municipalities, there is no clear economic impact at this time from permitting naturalization in those municipalities.

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 days⁵, 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 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 (9 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.

⁵ Section 2.02(c)

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 Bobcaygeon⁶ and 7 in Lindsay⁷. 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:

⁶ 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.

⁷ 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



Weed Control Act

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



Results from Jump In
Survey

Attachment I – Bluescaping our Neighbourhoods, Kawartha Conservation



Bluescaping our
Neighbourhoods

Attachment J – Landscape Design Guide for Low Impact Development, Kawartha Conservation



Landscape Design
Guide for Low Impact

Attachment K – Kawartha Conservation Memorandum re Long Grasses in Urban Areas to Increase Rainwater Capture



Kaw Cons Memo re
Long Grasses

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
Manager of Economic Development
Kawartha Region Conservation Authority

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Department Head: Robyn Carlson