

July 5, 2023

Review of the [Yard and Lot Maintenance By-law PH-9](#)

This motion is being proposed by the City of London Environmental Stewardship and Action Community Advisory Committee (ESACAC) whose [mandate](#) includes the maximization of the retention of trees and natural areas. This motion aims to prioritize the well-being of our community, protect biodiversity, uphold constitutional rights, improve by-law enforcement, enhance public information, and mitigate legal risks.

That Municipal Council BE REQUESTED to pass a motion, in the spirit of the following, to direct staff to undertake a review of the Yard and Lot Maintenance By-law PH-9:

Whereas, biodiversity loss is a growing concern that requires immediate attention and action from municipal authorities;

Whereas, the Yard and Lot Maintenance By-law PW-9 poses conflicts with other objectives of the City of London to conserve natural heritage and biodiversity (Environmental Policies, the London Plan 2022), to mitigate and adapt to climate change (Climate Emergency Action Plan, 2022), and to create liveable, complete street designs (London Complete Streets Design Manual, s2.5 Green Infrastructure 2018);

Whereas, Londoners are increasingly engaging in environmental stewardship including maintaining boulevard-facing gardens, Low-Impact Development (LID) such as rain gardens, and naturalization projects;

Whereas, there is a lack of easily accessible public information regarding the Yard and Lot Maintenance By-law PW-9 and its enforcement, hindering residents' understanding of their responsibilities and the City's expectations;

Whereas, there have been concerns raised regarding poor and inconsistent complaint-driven enforcement of the Yard and Lot Maintenance By-law PW-9 leading to mischaracterizations of by-law provisions, destruction of private property and potential negative impacts on the City's reputation and liveability;

Whereas, the Yard and Lot Maintenance By-law PW-9 and Naturalized Areas and Wildflower Meadows policy include imprecise and prescriptive language that is not reproducible in enforcement, and therefore poses legal risks to the City that could potentially result in litigation and financial burdens;

Whereas, the Ontario Court of Justice has found other municipal by-laws similar in effect to the City of London's Yard and Lot Maintenance By-law PH-9 to be void for vagueness and uncertainty in their language and for unjustifiably violating the freedom of expression guaranteed by section 2(b) of the Canadian Charter of Rights and Freedoms, 1982;

Therefore, be it resolved that the London City Council directs municipal staff to undertake a comprehensive review of the Yard and Lot Maintenance By-law PW-9 and related policies;

Be it further resolved that the review should address the following aspects:

1. Clarifying the intent and purposes of the By-law;
2. Providing statistics on enforcement of the By-law and assessing the effectiveness of enforcement processes and procedures;
3. Identifying and addressing any legal risks associated with the By-law, aiming to minimize potential litigation and financial burdens on the City;
4. Comparing the By-law's alignment with other City policies and strategies, particularly those related to natural heritage, complete street designs, and the Climate Emergency Action Plan;
5. Consulting with Indigenous communities about the By-law and prohibited plants;
6. Evaluating and improving mechanisms and public education to ensure consistent enforcement and compliance with the By-law;

Be it further resolved that the municipal staff present their findings and recommendations to Council within a reasonable timeframe, allowing for further discussion and potential amendments to the Yard and Lot Maintenance By-law PW-9;

Be it further resolved that enforcement of the Yard and Lot Maintenance By-law PW-9 in cases where there is not an immediate safety risk be paused while the By-law's legal validity is under review;

Be it further resolved that the City hold a Public Participation Meeting (PPM) to invite feedback from the community on the Yard and Lot Maintenance By-law PW-9 and staff recommendations.

References

1. City of London Yard and Lot Maintenance By-law
<https://london.ca/by-laws/yard-lot-maintenance-law-pw-9>
2. City of London Naturalized Areas and Wildflower Meadows Policy
<https://london.ca/council-policies/naturalized-areas-wildflower-meadows>
3. By-laws for Biodiversity: Ecological Design Lab at the University of Toronto
<https://ecologicaldesignlab.ca/project/by-laws-for-biodiversity/>
4. City of Toronto, Model By-law (enacted in 2021)
<https://ecologicaldesignlab.ca/project/model-by-law/>
https://www.toronto.ca/legdocs/municode/1184_489.pdf
5. City of Kitchener, Boulevard Beautification guide
<https://www.lovelyhood.ca/en/cool-ideas/boulevard-beautification.aspx>
6. City of Ottawa (2023), Updates to the Use and Care of Roads By-law 2003-498
https://engage.ottawa.ca/use-and-care-of-roads-by-law-updates/news_feed/proposed-regulations
7. Judicial Summary: Naturalised Gardens and Municipal Standards By-Laws
<https://johnsankey.ca/charter.html>
8. CBC (2022): Couple's win forces Smiths Falls to revisit approach to 'naturalized' lawns
<https://www.cbc.ca/news/canada/ottawa/smith-falls-naturalized-lawn-yard-victory-by-law-environment-ecology-wildlife-diversity-1.6467370>
9. Bell v. Toronto (City) (1996), case before the Superior Court of Justice
http://northcountrynotes.org/jason-rohrer/natureOnTrial/bell_v_toronto.html
10. David Donnelly MES LLB (2021), letter regarding the proposed amendments to the City of Toronto Municipal Code, Chapter 489 “Grass and Weeds”
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11. Nina-Marie Lister (2023), Deputation to Prince Edward County, Committee of the Whole: Draft bylaw on Lawn Naturalization
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