

August 29, 2023

To Mayor Morgan,
Members of City Council,
City of London



We, the undersigned 181 London community members, are writing to you regarding the City of London's [Yard and Lot Maintenance By-law PH-9](#) and the exemptions for wildflower meadows and perennial gardens. **Based on our concerns, we believe that the current by-law is unacceptable and more information should be collected through a review and Public Participation Meeting.** We encourage the City to explicitly facilitate natural gardens in yards and community spaces, and to consider that this outdated, confusing by-law is discouraging residents from undertaking environmental stewardship and climate action.

Natural gardens are well established in both practice and science: they are understood to provide important benefits to human well-being and ecosystem health. These landscapes are places that celebrate human connection with nature while providing many ecological and economic benefits that include (for example): improved stormwater management, enhanced infiltration and groundwater replenishment, water conservation and water quality improvement, soil improvement, erosion prevention, wildlife habitat protection and enhancement, carbon sequestration and food production.

Public perception

We are concerned that the public lacks understanding and is afraid of confrontations and punitive measures associated with this by-law's enforcement. The risk of complaints being brought against "messy" yards contributes to landowners' reluctance to embrace nature-based solutions for climate change, such as increasing vegetative cover, restoring urban soil and planting more trees on private land. While education about the by-law and its enforcement are indeed important, and we support the motion by Councillor Rahman at the August 15 Civic Works Committee meeting to produce an education pamphlet, **it is imperative that ambiguities in the by-law's definitions and related policies must be clarified before education about the by-law is implemented.**

We believe that the current by-law's language and enforcement procedures, in effect, reinforce the colonial tradition of lawns and manicured gardens by placing unnecessary barriers in the way of those who choose to deviate from it. The by-law and [Naturalized Areas and Wildflower Meadows policy](#) it references prescribe mandatory requirements for exempted yards that are not universally appropriate (e.g., annual mowing of meadows), that may cause ecological harms (e.g., must clear "leaves"), and that may be impossible to enforce.

Ambiguous definitions

Section 5.8 of the by-law, "Order to Discontinue Activity - particulars", says: "*An Order to Discontinue Activity shall set out: ... (c) the reasonable particulars of the contravention of the by-law*". Terms appear in the by-law that are used in orders but are not given as particulars. The by-law mandates a 20 centimeter height limit for "grass," a category of plants the by-law doesn't define. Yet there are more than 12,000 species of grass – a large category of hollow-stemmed, jointed plants. Which species are to be kept at 20 centimeters? The by-law doesn't specify, and in its silence, is vague and unenforceable. Enforcement falls to individual officers who are neither trained in plant identification nor have any guidance from the by-law, so enforcement is discretionary and arbitrary. According to the *Bell v. City of Toronto* decision by the Ontario Superior Court, this is indefensible and illegal.

Complicating matters further, the by-law prohibits "weeds" but does not explicitly define weeds according to the Noxious Weeds List under the Weed Control Act (Ontario Regulation 1096 248/14), which lists 25 specific species. Are beneficial native species like common milkweed considered "weeds" under the by-law's enforcement even if they are not provincially regulated? By-law enforcement officers are not required to have expertise in horticulture or

botany, nor any training in plant identification. For this reason, by-law officers have no basis for enforcement in handing out Orders to Discontinue Activity, and they can only make decisions on aesthetics or how plants “look.”

In terms of human safety, the by-law does not define line-of-sight conflicts and cannot support officers and recipients of complaints to determine an appropriate scope for actions to achieve compliance.

Naturalization only by exemption

Although the by-law includes exemptions for perennial gardens and wildflower meadows, the terms of these exemptions may be problematic. Exemptions are granted to naturalized yards that are subject to complaints. According to the by-law, the recipient of a complaint “*shall provide a landscaping plan*”. In practice, exemptions appear to be given when the owner of a naturalized garden without risks to health or safety resists a by-law order, yet this information is not clear for the general public. The experience of receiving orders for yard and lot maintenance of naturalized private land has been described by residents as very stressful and discouraging. In some notorious cases, entire gardens filled with native plants have been razed by the City and their owners were fined.

The exemption process was initiated when natural gardens were rare and unusual. Now that natural gardens have increased steadily as a cultural practice, the requirement for an exemption places a reverse and unfair burden on natural gardeners to defend and justify their plantings in a process that is intrusive, onerous, disincentivizing, and arbitrary. Yet those who complain to Municipal Law Enforcement (which triggers an investigation) aren’t required to identify any problematic species or specific health or safety issues on which their complaint is based, nor are the by-law enforcement officers required to name or be capable of identifying the problem species.

The entire process is intrinsically adversarial: Orders to Discontinue Activity assert a violation which the natural gardener is then required to disprove. The exemption is, by its very nature, based on the premise that any deviation from the lawn requires official “approval.” Further, the granting of the exemption offers no protection from ongoing complaints, regular inspections and the burden of defense.

Misconceptions

If the City’s goal is to ensure property maintenance, there are alternative ways to achieve this without punishing those who are engaged in positive action by requiring them to not only conform to an impossibly vague by-law but then to engage in an adversarial process premised on an assumption of by-law violation. London’s Yard and Lot Maintenance By-law can continue to fulfill its stated purpose of addressing nuisance issues, but the linkages between these issues and naturalized areas should be clarified so that enforcement action is situationally appropriate and more likely to lead to positive outcomes. For instance, naturalization does not necessarily produce vermin infestations of surrounding buildings: rodents are likely to be attracted to improperly stored garbage and food, and enter buildings that have not been inspected to seal points of entry. Rodent pests can be managed using targeted methods that do not require clearing all vegetation and brush from naturalized habitats (e.g., [guidance from the Province of British Columbia](#)). Furthermore, longer grass does not necessarily increase presence or mobility of ticks, which require specific environmental conditions to spread (e.g., [Lerman and D’Amico, 2019](#)).

We urge the City to pursue a review of the Yard and Lot Maintenance By-law focussing on recommendations to clarify the naturalization components of the by-law, and to hold a Public Participation Meeting. Other municipalities have addressed naturalization in updates to their by-laws in ways that do not impede enforcement in cases where there are implications for health, safety and environmental protection.

Under a Climate Emergency, this is a time of profound change to “business as usual” and it is precisely the time to ask: How can the City do better by supporting biodiverse landscapes of demonstrable ecological value and human connection to nature?

Yours truly,

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