

Submission from Lorraine Johnson, [REDACTED] cell; [REDACTED]

To: London City Council

August 23, 2023

I am writing to urge you to support a review of London's Yard and Lot Maintenance By-law PH-9.

Many thanks for this opportunity to explain my reasons for supporting this motion.

By way of introduction, I am an expert on naturalization, native plant gardening, and municipal grass and weeds bylaws. I have written many books on these subjects (including *The Ontario Naturalized Garden*; *The New Ontario Naturalized Garden*; *Grow Wild! Native Plant Gardening in Canada and Northern U.S.*; *100 Easy-to-Grow Native Plants for Canadian Gardens*; *Tending the Earth*; and *A Garden for the Rusty-Patched Bumblebee*, among other books), articles, newspaper OpEDs and brochures. I regularly give presentations on the topic of reforming grass and weeds bylaws, and have consulted with a number of municipalities on their revisions to their grass and weeds bylaws (including as a Subject Matter Expert for the City of Toronto during the most recent revision of Toronto's bylaw).

London has many progressive policies related to ecological health, and it is important that the City's Yard and Lot Maintenance By-law support, rather than subvert, these policies.

The current bylaw, unfortunately, includes a number of provisions that are at odds with ecological health and best practices for landscapes in support of pollinators and biodiversity. As well, a number of terms used in the bylaw are vague, arbitrary and undefined, and thus can lead to subjective enforcement.

As just a few examples of these problems with the current bylaw, and some of the reasons why I urge you to support a review of London's Yard and Lot By-law PH-9, I note the following:

- The bylaw requires the removal of "weeds or grass more than 20 centimetres (8 inches) in height," yet nowhere are these terms defined. The bylaw *implies* but does not state that plants prohibited (or required to be cut down below 20cm) are those plants listed in the Weed Control Act (see Sections 4.6 and 4.7 of the bylaw). However, it is not clear that the plants designated under the Act as Noxious Weeds are the ONLY plants regulated as "weeds" under the bylaw. It is also important to note that the term "weeds" is vague, subjective and arbitrary, and that the Weed Control Act is intended, as written in the Act, to apply only to agricultural lands and lands of horticultural production, not to urban areas.
- With regards to the term "grasses," it is not clear in the bylaw if this refers only to lawn turfgrass or if ALL 2,000+ species of graminoids are required to be cut to 20cm, surely an overly broad prohibition and yet a prohibition as the bylaw is currently written.

- The term “Domestic Waste” as defined in the bylaw includes grass clippings, tree cuttings, brush and leaves. Sections 2.5, 2.6, 2.8, 2.9, 3.1, 3.4, 3.5, 3.10, 4.6 and 4.7 require that these ecologically valuable materials be removed from the landscape. However, best practices dictate that grass clippings be left on mown lawns to return nutrients and organic matter to the soil; that cut branches are important habitat for numerous wildlife species such as birds and pollinators; and that leaves should be left where they fall in order to provide habitat for pollinators, valuable and free mulching materials, and soil protection and enhancement through nutrient recycling. To label these ecologically valuable materials “waste” and require them to be removed cannot be justified for any health or safety reasons and subverts the City’s environmental goals.
- The definition of “Naturalized Area” specifies that only native species are allowed to grow in an area to be considered “naturalized.” Not only does this not fall within the standard definition of “naturalization” (which specifically includes non-native plants that spread without cultivation), and thus can lead to confusion, but it means that any of the numerous non-native naturalized (but non-invasive) plants that re-establish from the soil seed bank are required to be cut, if one wants to utilize the naturalized area exemption.
- It is unclear, and needlessly complicated, to include a separate category in the bylaw for “Wildflower Meadows” and then proscribe one particular maintenance technique for maintaining a meadow (i.e., mowing once or twice per year). There are many different methods of maintaining a meadow. As well, a wildflower meadow is an example of a “naturalized area,” so to have a separate category is unnecessary. As well, as written the bylaw prohibits someone from creating a meadow with the intention of allowing the meadow to naturally grow into a woodland with trees and shrubs—something that is a natural process and ecologically valuable, along with being a personal choice that should be allowed, particularly if one’s goal is to “emulate a natural area.”
- “Naturalized area” exemptions in grass and weeds bylaws have the effect of stigmatizing natural gardens as somehow suspect and requiring of permission. When Toronto revised its grass and weeds bylaw in 2021/2022, the natural garden exemption was removed on the advice and urging of the Subject Matter Experts, who argued that the rules should be clear and the same for ALL gardens.
- I note that Part 5 Enforcement includes no provision for appeal. I am not a lawyer so I cannot comment on the legality of this absence of an appeal mechanism, but I would urge you to consider this absence as a lack of due process.
- I note that sections 5.8 c) and 5.11 b) use the term “reasonable particulars.” Again, given the subjective nature of the terms used in the bylaw, I urge you to consider specificity and clarity if/when conducting your review of the bylaw. I would suggest that

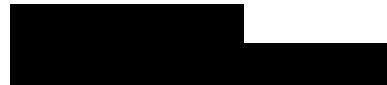
“reasonable particulars” should include a list of the specific plants that require action to be undertaken.

Given the above-mentioned issues with the current bylaw, I urge you to vote in support of a review of the bylaw. Further, I urge you to include the following guidelines to staff for the revisions:

- 1) Instruct the City’s legal staff to thoroughly review the Bell and Counter decisions in which the Ontario Superior Court has already ruled on matters very similar to those raised by London’s current bylaws and to ensure that any revisions conform to the two court rulings on natural gardens.
- 2) Instruct the City’s legal staff and bylaw staff to thoroughly review the Model Bylaw prepared by Carly Murphy and found on the Ecological Design Lab’s website, <https://ecologicaldesignlab.ca/project/urban-biodiversity-studio/>, which offers a model for a grass and weeds bylaw in support of biodiversity. In other words, in undertaking a revision to the bylaw, you do not need to “reinvent the wheel.”
- 3) Instruct staff to review the rules related to boulevard plantings and ensure that they are clear, enabling and in sync with the Yard and Lot Maintenance By-law.
- 4) Prioritize the harmonization of this bylaw with the City of London’s other forward-thinking and ecologically valuable policies related to environmental health and best practices. The “well-being of the inhabitants of the municipality” is identified as a goal of the City’s Yard and Lot Maintenance By-law. With this proposed review, which I urge you to support, you have the opportunity to put this goal in practice and encourage ecological well-being in the yards and gardens of London.

I am requesting that this submission be a public document.

With many thanks for your consideration,
Lorraine Johnson



www.lorrainejohnson.ca