
TO: GENERAL COMMITTEE

SUBJECT: REVIEW OF YARD MAINTENANCE STANDARDS

PREPARED BY AND KEY CONTACT: G. ALLISON, P. ENG., CBCO, DIRECTOR OF BUILDING SERVICES *al*

SUBMITTED BY: G. ALLISON, P. ENG., CBCO, DIRECTOR OF BUILDING SERVICES

GENERAL MANAGER APPROVAL: R. FORWARD, MBA, M.Sc., P. ENG., GENERAL MANAGER OF INFRASTRUCTURE, DEVELOPMENT & CULTURE *R. Forward*

CHIEF ADMINISTRATIVE OFFICER APPROVAL: JON M. BABULIC, CHIEF ADMINISTRATIVE OFFICER *J. Babulic*

RECOMMENDED MOTION

1. That the Property Standards By-law and Clean Yards By-law be revised to incorporate the updated community standards identified in Appendix 'A' of Staff Report BLD001-11.
2. That item 4 on pending item P34/10 as it relates to the Building Services Department and Property Standards By-law and pending items P65/99, P154/07 and P59/10 be removed from the pending list.

PURPOSE & BACKGROUND

3. There is an interest within the community for the municipal government to establish, administer and enforce regulations that require property owners to maintain their properties to an acceptable community standard. The regulations would seek to establish protection from hazards and to establish generally-accepted aesthetics. The expected result of this public service is the protection of public safety and the quality of life in the neighbourhood and in the community and consequently the protection of neighbourhood property values.
4. The City of Barrie currently has three by-laws that regulate the use and maintenance of residential properties in the community;
 - a. The Zoning By-law, passed under the authority of the Planning Act, limits the permitted uses allowed on properties within described zones, and establishes development standards with respect to such matters as setbacks, height limits, lot coverage, landscaping and off-street parking. It, for example, requires at least 50% of every residential front yard to be landscaped open space on which no vehicles or trailers can be parked.
 - b. The Clean Yard By-law, passed under the Municipal Act, requires property owners to keep their yards clean and tidy with respect to cutting the grass and weeds and removing all garbage and debris.
 - c. The Property Standards By-law, passed under the Building Code Act, requires property owners to maintain their properties and buildings in accordance with the prescribed community standards. This includes requirements for structural stability, weather-resistant exterior finishes and the removal of inoperable vehicles stored on driveways.

5. There have been several motions of Council requesting a review of the City's property maintenance by-laws to address issues that have arisen within the community;

a. REVIEW CONCERNS RE MAINTENANCE OF PRIVATE LANDS

That the Clerk's Office and the Planning & Development Department study the form of a by-law required to address concerns about the upkeep of private land with particular respect to weed and grass cutting, garbage, debris and other refuse and report back to General Committee. (Pending Item P65/99, Motion 99-G-271 dated August 16, 1999)

b. NATURALIZATION POLICY

That the Building Services Property Standards Branch review Property Maintenance and Occupancy Standards By-law (By-law 2006-262 – see Appendix "E") and Clean Yard By-law (By-law 90-355 – see Appendix "D") and report back to General Committee on any recommended changes required within these By-laws to ensure they are consistent with the goals of Naturalization where ever possible. (Pending Item P154/07, Motion 07-G-604 dated November 12, 2007)

c. REVIEW OUTDOOR STORAGE STANDARDS

That staff of the Building Services Department draft revisions to the City's Property Standards By-law 2006-262 for regulating the outdoor storage of materials within the front and side yards of residential properties for consideration in their public review of the yard maintenance standards. (Pending Item P59/10, Motion 10-G-403 dated November 29, 2010)

d. DOWNTOWN AND ALLANDALE CIP's

That staff in the Planning and Building Departments review the Zoning and Property Standards By-laws to investigate the feasibility of implementing requirements for higher standards associated with the aesthetics of all properties and report back to General Committee (Pending Item 34/10, Motion 10-G-242 dated May 31, 2010)

6. In response to Council's requests, staff have undertaken to review the yard maintenance standards for this community. The Planning Department has been consulted with respect to Pending Item 34/10. This staff report brings to General Committee recommendations for regulatory amendments.

ANALYSIS

7. The implementation of regulations by the municipal government for its community has three components;
- a. The legislative authority to establish, administer and enforce the regulatory standards;
 - b. The establishment of what the regulatory standards are; and
 - c. The provision of the service delivery policies, procedures and staff resources to administer and enforce the regulatory standards.
8. The Property and Zoning Standards Unit of the Inspections Branch within the Building Services Department is responsible for the administration and enforcement of the land use standards, yard maintenance standards and building maintenance standards as prescribed in the Zoning By-law, the Clean Yards By-law and the Property Standards By-law.

9. The Property and Zoning Standards Unit has an approved complement of one supervisor, three Zoning Officers, one part time Zoning Enforcement Officer, four Property Standards Officers and two summer students. Their operating budget expenses for 2010 were \$626,434 with the expected offset of \$87,000 collected in service fee revenues. The expenses do not include departmental or corporate overhead expenses.
10. In 2010, staff managed, among other things, the investigation of 1481 property maintenance complaints, which includes both yard maintenance and building maintenance.
11. As noted in article 4 above, the authority to establish regulatory standards for the use and maintenance of yards in the community comes from the Planning Act, the Municipal Act and the Building Code Act.
12. While the Zoning By-law under the Planning Act contains land use standards that directly impact the aesthetic appearance of yards, most yard maintenance standards will be contained in either the Clean Yards By-law passed under the Municipal Act, or the Property Standards By-law passed under the Building Code Act, or both. An explanation of the differences between these two by-laws is provided in the chart below.

Property Standards By-law	Clean Yards By-law
<ul style="list-style-type: none"> • Applies to both interior and exterior issues • Applied in more complex and/or subjective cases open to possible interpretation (i.e. Marijuana Grow-op) • Prolonged process • Provides for an appeal of an Order issued by a Property Standards Officer 	<ul style="list-style-type: none"> • Applies to only exterior yard and vacant lot issues • Applied in more objective and minor cases where there is little or no need for interpretation (i.e. Long Grass and Weeds) • Quicker and more efficient process • No appeal of an Officer's Order

13. A public consultation process was undertaken to receive input of any potential changes to the current standards. The public consultation involved notices in the local paper and on the City's web site, correspondence with known ratepayer groups, survey response forms, and two public open houses.
14. In addition to the public input, the enforcement staff were consulted and research was conducted of yard maintenance standards of other municipalities.
15. As a result of the consultation and research, this report recommends several amendments to the City's yard maintenance standards which are summarized in Appendix 'A' along with the rationale for each recommendation. Those issues that are new or have been amended are highlighted in bold text. The more significant amendments include:
 - a. Regulating the storage of Domestic Goods;
 - b. Reducing the maximum height of grass from 12" to 6" on developed properties;
 - c. Prohibiting the storage of Household Waste in the front yard;
 - d. Requiring the removal of snow and ice from buildings where public and occupant safety is at risk; and
 - e. Requiring the removal of pet waste from yards.

16. In direct response to the four pending items from previous Councils;
- For Pending Item P65/99, staff are recommending revised community standards for grass and weed cutting, garbage, debris and other refuse on private properties.
 - For Pending Item P154/07, staff are recommending that Environmental Protection Zoned lands, Agriculturally Zoned lands, and any other designated naturalized areas as deemed by Council to be exempted from the grass maintenance provision in the new Clean Yards By-law.
 - For Pending Item P59/10, staff are recommending a new community standard be adopted whereby household possessions stored in yards must be neatly stored, and cannot be excessive in front yards.
 - For Item 4 of Pending Item P34/10, staff are recommending additions to the property maintenance by-laws as outlined on Appendix A
17. There were several minor amendments also identified by staff as housekeeping matters that will be incorporated into the by-law amendments when brought back to Council for approval. They are summarized in Appendix 'B' along with the rationale for each amendment.
18. The final component of providing regulatory services for the community is the service delivery policies and procedures. The current policies were last updated by Council in 2008. They primarily provide for enforcement services to be triggered by a complaint from one or more community residents, but gives permission for staff to take pro-active action when public safety and/or well-being are evident and staff resources are available. No change is being recommended to the enforcement policies at this time.

ENVIRONMENTAL MATTERS

19. There are no environmental matters related to the recommendation.

ALTERNATIVES

20. There are two alternatives available for consideration by General Committee:

Alternative #1

General Committee could maintain the existing by-laws with respect to property standards and clean yards.

This alternative is not recommended as there are a number of statutory changes that are required.

Alternative #2

General Committee could alter the proposed recommendation by selecting which of the revisions they wish to keep.

This alternative is not recommended as the revisions are being recommended after consultation with residents and staff and staff believe they are in the best interest of the municipality to be adopted.

FINANCIAL

21. While the changes proposed in this staff report has the potential of increasing the number of complaints and/or the amount of effort needed by staff to educate, encourage and enforce compliance with these municipal standards, staff believe the work load can be adequately managed by the current staff complement.

22. The changes to the by-laws will also impact the work load for Finance as they generate the invoices for the inspections conducted by Building Services Staff. In 2009, approximately 29% of complaints investigated resulted in the issuance approximately 500 invoices. Based on these figures staff are projecting the number of invoices to increase by 20% or 100 invoices in 2011 if the proposed changes to the by-laws are adopted.
23. If in the future the work load for the administration and enforcement of these standards exceeds the capabilities of the approved staff complement in either the Building Services or Finance, a Program Change Form will be prepared for Council's consideration as part of the annual Business Plan and Operating Budget process.

LINKAGE TO 2010-2014 COUNCIL STRATEGIC PLAN

24. The recommendation(s) included in this Staff Report are not specifically related to the goals identified in the 2010-2014 City Council Strategic Plan.

APPENDIX "A"

COMMUNITY ISSUE	EXISTING COMMUNITY STANDARD	OPEN HOUSES AND SURVEY INPUT	RECOMMENDATIONS	RATIONALE
Outside Storage of Domestic Goods	No limitations on where or how much can be stored in a residential yard	The majority of respondents think that domestic storage should be regulated and limited	Regulate the storage of <i>DOMESTIC GOODS</i> in a side and rear yard provided that the storage is in a neat condition and in a front yard provided it is neat and not excessive. <i>DOMESTIC GOODS is defined as being consistent with the use of the property and includes, but is not limited to, firewood, building materials, garden equipment and furniture, household belongings and sports equipment.</i>	The proposed provision will address the complaints from residents concerning outside storage.
Garbage and Debris	Must be removed promptly and accumulation not permitted	Have owners and tenants maintain their properties free of garbage and debris	Maintain the current standards.	The current standards are effective in regulating garbage and debris.
Storage of Household Waste	Must be stored in rigid container No location on the property prohibited	The majority of respondents favour the prohibiting of the storage of <i>Household Waste</i> in the front yard of a residential property	Prohibit the storage of Household Waste in the front yard of a property where there is a garage, side yard or designated storage facility.	The majority of respondents do not want to see garbage and garbage bins in the front yard of a property.
Inoperable Vehicles	Not permitted on a residential property unless 20 years old or more and being restored	The majority of respondents would like to see the 20 year exemption for vehicles removed	That the Property Standards By-law be amended to delete the 20 year exemption for in-operable vehicles. Continue to prohibit the storage of inoperable and unlicensed vehicles on properties except where permitted under the Zoning By-law.	The 20 year exemption was being misused resulting in dilapidated vehicles being stored on properties.

Storage of Boats and Trailers	Boats and trailers are permitted in the front yard in a residential zone on a driveway and in side and a rear yard	The majority of respondents think that the provision in the Zoning By-law concerning boats and trailers should remain the same.	Maintain the current standards in the Zoning By-law.	This issue was recently reviewed in the re-write of the City's Comprehensive Zoning By-law and no changes were made at that time.
Accessory Structures	Must meet property line setback (2ft), height (16.4ft), and lot coverage (45%)	Not a lot of discussion on this issue and no strong direction from the survey results	Maintain the current standards.	The Zoning By-law was amended in 2010 to reduce the maximum height of accessory structures.
Maintenance of Lawns, Grass and Weeds	Must be maintained and not to exceed 12" in height	Survey results were not overwhelming in any respect of this provision	To regulate the maximum height of grass to 6 inches on developed properties, to 12 inches on undeveloped properties and that City's Naturalization Policy be referenced. To clarify, the term "developed" would refer to property used for purposes other than open space.	Staff have found the current height of 12 inches problematic as it allows properties to deteriorate significantly before any action can be initiated. Large, open, undeveloped land need not be as restrictive.
Groundcover to Prevent Dust and Mud Build-up	No standard in place to address dust and mud build-up	The majority of respondents favour controls being put in place to address this issue	To regulate the maintenance of ground cover on properties to minimize significant erosion and accumulation of mud. <i>GROUND COVER includes, but is not limited to plant material, gravel, patios, driveways, etc.</i>	Staff receive a number of complaints where due to a number of factors, the ground cover has been removed or eroded resulting in the material accumulation of mud or the blowing of particles off the property.
Gardens and Naturalized Areas	No standards are in place to define and address gardens and naturalized areas	The majority of the respondents agreed with the definition of a <i>Natural Garden</i> in the survey	To define <i>Natural Garden</i> and to include a reference to the City's approved Naturalization Policy. <i>NATURAL GARDEN means vegetation that has been deliberately planted to produce ground cover, including species of wildflowers, shrubs, perennials, grasses or combinations of them, consistent with a managed and natural landscape other than regularly mown grass.</i>	By defining a <i>Natural Garden</i> and including a reference to the City's approved Naturalization Policy, it will enable staff to better address complaints where the property owner is challenging staff's interpretation of this provision of the Clean Yards By-law.

Maintenance of Trees and Shrubs	No standards in place to maintain trees and shrubs	The majority of the respondents think that trees and shrubs should be maintained	To regulate the maintenance of shrubs and bushes that have become significantly overgrown and unkempt.	The proper maintenance of these features maintains the overall appearance of properties.
Landscape Features (Fountains, Statues etc.)	No standards are in place	Survey results were not overwhelming in any respect of this provision	To regulate the maintenance of <i>LANDSCAPE FEATURES in good condition. LANDSCAPE FEATURES includes bird baths, floral planters, fountains, statues and other decorative features.</i>	The proper maintenance of these features maintains the overall appearance of properties.
Maintenance/Removal of Dead or Dying Trees	Any tree or part of a tree found to be dead or dying must be made safe	The majority of respondents favour having dangerous trees addressed	That the current standards in place be maintained.	Health and safety matter of importance to the community.
Excavations and Holes	All excavations must be fenced and the grade of the property must not permit the ponding of water	Survey results were not overwhelming in any respect of this provision	That the current standards in place be maintained.	Health and safety matter of importance to the community.
Drainage	No roof drainage, storm water drainage, sump pump discharge, or discharge from a swimming pool shall be directed or discharged onto a sidewalk, stair or neighbour's property. Storm water and pumped discharge water shall be drained from the yard so as to prevent recurrent ponding or the entrance of water into a building and in a manner that will minimize erosion of adjacent properties.	The majority of respondents would like to see the City intervene in grading/drainage complaints	Although many of the respondents would like to see the City intervene in drainage complaints between residents, staff are not recommending any change to the current standards.	Significant additional resources would be required if the City was to intervene in drainage complaints between residents. Also, determining the approved grading of a property may be difficult if formal drainage plans are not available.

Retaining Walls	Must be in compliance with the Zoning By-law (height and setback) and be maintained in good repair	Survey results were not overwhelming in any respect of this provision	To regulate the maintenance of retaining walls.	A specific provision will enable staff to more effectively enforce the maintenance of retaining walls as a property maintenance violation rather than a zoning violation.
Exterior Lighting	No standards for lighting/light trespass in the property except for parking lots	Survey results were not overwhelming in any respect of this provision	That the current standards in place be maintained.	No strong or clear concerns on this issue.
Snow and Ice Removal from Buildings	No standards are in place	Survey results were not overwhelming in any respect of this provision	To require the removal of snow and ice that poses a threat to person or property	Health and safety matter of importance to the community.
Graffiti	The removal of graffiti is the responsibility of the property owner	The majority of respondents want to see graffiti removed in a timely fashion	To amend the existing provision to require the removal of graffiti on property.	Enforcement will be both proactive and re-active and encourage property owners to remove graffiti promptly to deter further graffiti.
Exterior Signs, Banners and Flags	No standards are in place	Not a significant issue at the Open Houses	That no standards be implemented for these devices	The City's Sign By-law requires signs including banners and flags to be kept in good repair
Barrier-free Access	Where required, it must be maintained	Not a significant issue at the Open Houses	Where barrier-free devices or modifications exist that they be maintained.	Health and safety matter of importance to the community.
Pest Control	The property shall be kept reasonably free of rodents, vermin and insects at all times	The majority of respondents think that property owners should be responsible for treating their properties	That the current standards in place be maintained.	Health and safety matter of importance to community.
Animal Waste	No specific standards are in place	The majority of respondents think that pet owners should pick up pet waste from their properties on a regular basis	To require owners to clean up pet waste on their properties.	Past experience with complaints has demonstrated that residents have concerns about accumulated animal waste.

APPENDIX B

Clean Yards	N/A	Preamble	Amend the preamble to reflect current legislative authorities.	Statutory requirement.
Property Standards	By-law 85-32 (Hoarding and Barricading By-law)	Vacant Buildings	Add a provision to regulate vacant buildings including maintained in a structurally sound condition and limiting access into or onto the building.	The By-law 85-32 to be repealed and applicable standards to be included in the Property Standards By-law.
Property Standards	Maintenance of stairs and porches are regulated	Stairs and Porches	Add provisions to regulate maintenance of decks and similar structures.	The maintenance of decks are not identified in the current by-law.
Property Standards	Maintenance of handrails and balustrades are regulated	Handrails	Amend to add guards around stairs and elevated floor areas so that it is consistent with Ontario Building Code regulations.	Guards are not identified in the current by-law. To maintain consistency with terminology in the Ontario Building Code.
Property Standards	To provide minimum type and number of plumbing fixtures	Kitchen, Bathroom and Washroom	Amend to provide for the maintenance of household plumbing fixtures.	The maintenance of household plumbing fixtures is not currently regulated.
Property Standards	Extension cords not permitted to be used on a continual basis	Electrical Service	Delete the prohibition on the use of electrical extension cords.	The use of extension cords is regulated under the Electrical Safety Authority.
Property Standards	Occupants of dwelling are required to control their pets	Occupancy Standards	Delete of the provision requiring owners/tenants to control their pets.	The behaviour of pets is regulated under the Animal Control By-law.
Property Standards	Requirement for walls separating dwellings to comply with Ontario Building Code	Walls and Ceilings	Add reference to the Ontario Building Code and Ontario Fire Code, where applicable, for fire separation properties of all walls that separate dwelling units from adjacent uses.	The provision in the present by-law conflicts with provisions in the Ontario Building Code and the Ontario Fire Code.
Property Standards	Various standards that conflict with Provincial statute and regulations	All Sections	Delete all sectional references to the Ontario Building Code. Maintain general references to the OBC and add references to the Ontario Fire Code, where applicable.	The provision in the present by-law conflicts with provisions in the Ontario Building Code and the Ontario Fire Code.
Property Standards	All objectionable markings must be removed from exterior walls	Exterior Walls	Include the term "graffiti" and regulate same on all surfaces on property.	Fences, retaining walls, etc. are not presently regulated