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**TO:** GENERAL COMMITTEE

**SUBJECT:** YARD MAINTENANCE BY-LAW 2011-107 REVIEW

**WARD:** ALL

**PREPARED BY AND KEY CONTACT:** J. FORGRAVE, SUPERVISOR OF ENFORCEMENT SERVICES, EXT. #4330

**SUBMITTED BY:** W. COOKE, DIRECTOR OF LEGISLATIVE AND COURT SERVICES/CITY CLERK

**GENERAL MANAGER APPROVAL:** D. MCALPINE, GENERAL MANAGER OF COMMUNITY AND CORPORATE SERVICES

**CHIEF ADMINISTRATIVE OFFICER APPROVAL:** M. PROWSE, CHIEF ADMINISTRATIVE OFFICER

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### **RECOMMENDED MOTION**

1. That Yard Maintenance By-law 2011-107 as amended be further amended, based on wording contained in Appendix "A" to Staff Report LCS006-23.
2. That staff in the Legislative and Court Services Department (Enforcement Services) be authorized to make application to the Ministry of the Attorney General for set fines related to the Yard Maintenance By-law, with fine amounts ranging from \$100.00 to \$1,000.00 based on the nature of the offence.

### **PURPOSE & BACKGROUND**

#### **Report Overview**

3. The purpose of this Staff Report is to review opportunities to enhance enforcement and increase compliance associated with yard maintenance violations. This Staff Report recommends enacting additional provisions to deal with concerns/complaints raised by residents while clarifying definitions of various sections to reduce ambiguity in the interpretation of the by-laws. The proposed changes are also anticipated to enhance the enforcement of the Yard Maintenance By-law in a more timely and efficient manner.
4. Cost recovery for the enforcement of yard maintenance has also been reviewed and the proposed set fine application to the Ministry of the Attorney General is intended to assist in managing enforcement costs.

#### **Background**

5. The Yard Maintenance By-law is passed under the authority of The *Municipal Act* and is designed to address minimum standards set out to regulate the exterior of a property. Such standards include but are not limited to long grass and weeds, garbage and debris, inoperable vehicles as well as public and occupant safety.

6. This by-law generally allows for quicker enforcement and compliance than the Property Standards By-law as there is no requirement for an appeal process and no need for staff to attend court unless an Officer is required to swear an information against an owner. If compliance is not achieved, the Officer has the ability to hire a contractor to clean up the property and invoice the registered property owner for costs incurred by the City. This process has proven successful in obtaining compliance and has served the community well over the years, however some further enhancements are recommended.
7. This report addresses the yard maintenance complaint process and discusses additional tools to provide enhanced enforcement and increase compliance in a timely and effective manner.
8. Enforcement of the Yard Maintenance By-law is essential to ensure a minimum standard for quality of life for residents. When standards are enforced, the overall aesthetics of the community are improved and the safety and security of the residents are improved. When properties are not maintained to a minimum standard, the community as a whole suffers.
9. When a property has received complaints (two or more) for similar offences, staff will generally move to the Notice process immediately. These owners have previously been educated on the minimum standards and are aware of the municipality's expectations. Staff's main objective is to obtain compliance to the current minimum standards.
10. Service Fees are used to offset the cost of enforcement while helping to ensure similar violations do not occur in the future. Previously, Council approved an enforcement approach and fee structure for the Yard Maintenance By-law that can be summarized as follows:
  - If a complaint was received and a violation did not exist at the time the Officer attended, a fee was not charged to either the complainant or the property owner;
  - If a violation existed on the first inspection by the officer and it was a first complaint related to the property, a fee was not to be charged.
  - Fees were only to be invoiced if a second or subsequent inspection determined a violation existed.
11. This philosophy to the invoicing of fees was deemed appropriate as compliance is the primary goal of enforcement and it is reasonable to assume that many property owners may not be aware of the specific requirements of the Yard Maintenance By-law. This approach is also one that is supported by the Courts if by-laws or enforcement activities are challenged.
12. Should the invoiced fees not be paid by the registered owner of the property, the amount of the invoice shall be deemed to be taxes and may be added to the tax roll and collected in the same manner as property taxes.
13. The recommendation to obtain set fines from the Ministry of the Attorney General is proposed to assist staff with enhance enforcement and increase compliance associated with yard maintenance violations created by the lessee, tenant or occupant of a property by imposing immediate penalties.

#### **ANALYSIS**

14. Staff have undertaken a review of Yard Maintenance enforcement policies and procedures specifically as it relates to enhanced enforcement and the ability to increase compliance associated with violations and incorporate proactive enforcement of such regulations.
15. During the review process, an assessment of the other municipalities by-laws indicated that the Yard Maintenance by-laws were relatively similar in nature with comparable definitions of "owner", permitted height of grass or weeds, and the outdoor storage of collectable waste.

16. Some make mention of naturalized properties in relation to the municipality, however are not specific to residential natural gardens or other incentives or programs for pollinator patches or mowing exemptions which have become of interest to environmental organizations and the City. Staff are proposing wording be included that would permit modified maintenance to a property providing the property is registered or working within a municipally recognized and approved program. While registered or participating in a municipally sanctioned program the property owner or occupant would be required to adhere to all parameters of the program and all other applicable By-laws.
17. The following is an overview of the amendments proposed in Appendix "A" to Staff Report LCS006-23:
  - a) To amend the definition for Owner, which will provide clarification on the responsibility of all persons living on or involved in a property;
  - b) To amend the definition of Inoperable Vehicle to align with new provincial regulations on validation stickers and remove the time frame associated with the creation of the offence;
  - c) To add a section to make it an offence to hinder, obstruct or interfere with an Officer;
  - d) To include wording that allows for exemptions as part of City approved programs intended to promote naturalization, pollination or rejuvenation of yards or gardens;
  - e) To amend wording related to outdoor storage of waste material in conjunction with the planned housing intensification throughout the City with second suites and detached accessory dwellings by removing permitted storage in a side yard;
  - f) To reduce compliance timeframes by aligning registered mail delivery periods with Canada Post delivery periods; and
  - g) To provide for administrative amendments to various sections related to headings, legislative references, and numbering, as is deemed necessary.

#### Reduced time to comply with the By-law

18. At present when an officer observes a violation of the Yard Maintenance By-law they will first allow twenty four (24) hours to comply. Failure to comply within twenty four (24) hours will result in a registered letter being sent to the property owner, allowing another twelve (12) days to comply, comprised of five (5) days to receive the registered mail and seven (7) days to remediate the violation. If after twelve (12) days, no work has been completed, the City may hire a contractor to complete the prescribed work. All contractor fees are invoiced to the property owner plus an additional fifty (50) percent service fee.
19. To address neighbouring resident concerns in a more timely fashion, as an internal operating protocol, staff will be reducing the current seven (7) days compliance time to two (2) days for matters such as grass and weeds violations or garbage and debris or other issues generated by the resident or occupant of the land. Such timelines may be altered based on weather conditions, work required and property history. Total compliance time within this proposal, if registered mail is required would now be five (5) days – three (3) days to allow for mailing and two (2) days for compliance. It is anticipated that this proposal along with the requested immediate penalties to the resident, occupant or owner will enhance the enforcement and gain quicker and lasting compliance.

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Application of Set Fines if approved by the Ministry of the Attorney General

20. Current processes have administrative fees which may be assessed to the registered owner of a property for all violations of the by-law relating to that property, which staff are not recommending change.
21. The implementation of set fines if approved from the Ministry of the Attorney General would provide an additional option for staff as part of the enhanced enforcement with a potential increase in compliance associated with yard maintenance violations created by the lessee, tenant or occupant of a property by imposing immediate penalties, an option which currently does not exist.
22. Staff would make application to the Ministry of the Attorney General in the prescribed format with suggested set fine amounts for chosen Yard Maintenance By-law violations created by the lessee, tenant or occupant of a property and not necessarily caused by the registered owner. An example would be an inoperable vehicle on the property registered to the lessee, tenant or occupant.
23. The Ministry of the Attorney General will approve set fine values it considers reflects a provincial standard for similar offences and not necessarily what the municipality has suggested.

Requiring Waste to be Contained in a Structure

24. A suggestion had been received to require all garbage cans, recycling bins and organics containers to be stored within a structure or dwelling. Given the constraints within garages, particularly in smaller dwellings, cost implications for homeowners and tenants to build or buy a structure as well as anticipated changes in the waste management industry, staff have not recommended this requirement, at this time.

**ENVIRONMENTAL AND CLIMATE CHANGE MATTERS**

25. There are no environmental or climate change matters directly related to the recommendation. Indirectly, one of the recommended changes to the by-law is to provide for exemptions as part of City approved programs intended to promote naturalization, pollination or rejuvenation of yards or gardens, which have become of interest to environmental organizations and the City.

**ALTERNATIVES**

26. The following alternatives are available for consideration by General Committee:

**Alternative #1**

General Committee could alter the proposed recommendations by maintaining the existing Yard Maintenance By-law. (i.e. Status Quo)

While this alternative is available, the proposed changes will clarify definitions, add accountability for lessees, tenants and occupants, and allow for residents to participate in events such as No Mow May Programs, if registered/approved, without being in violation of the By-law.

**Alternative #2**

General Committee could alter the proposed recommendation by amending or deleting specific proposed enhancement provisions as it deems appropriate.

This alternative is not recommended as the changes identified are as a result of observed challenges by staff or members of the community when enforcing the current by-law as well as intended to provide by-law provisions that are clear and understandable. Residents have expressed a desire for quicker enforcement and compliance of the by-law, particularly as it relates to exterior property conditions and aesthetics. Owners and occupants alike should be responsible for the maintenance of the properties in a timely fashion.

**Alternative #3**

General Committee could alter the proposed recommendation by deleting the authority for staff to apply to the Ministry for set fines.

This alternative is not recommended as set fines, if approved would enable a ticket to be issued immediately when a violation is discovered and not just to the owner of the property.

**FINANCIAL**

27. There are no direct financial implications associated with the recommendations in this report.

**LINKAGE TO 2022-2026 STRATEGIC PLAN**

28. While the recommendation(s) included in this Staff Report are not specifically related to the goals identified in the 2022-2026 Strategic Plan, enhanced enforcement of the by-law and other by-laws contributes to building a safe and thriving community.

**APPENDIX "A"**
**Yard Maintenance By-law 2011-107 – Amendment Summary**

	Title	Section	Current State	Proposed Amendment
1.	Definitions	2.7 <b>"INOPERABLE VEHICLE"</b>	Includes the definition of vehicle under the Highway Traffic Act, and the reason it is inoperable such as having missing or damaged components which prevents its mechanical function. It also includes a vehicle that does not display a vehicle permit licence plate with a validation sticker that has been expired for more than one year	Keep the current wording in the section however remove the reference to the expired vehicle validation sticker as the province no longer issues the stickers
2.	Definitions	2.13 <b>"OFFICER"</b>	Currently does not reference all possible City staff that may enforce the by-law	Amend wording to capture all possible City staff that may enforce the by-law including Property Standards Officer, Municipal Law Enforcement Officer, Police Officer or other Provincial Offences Officer
3.	Definitions	2.14 <b>"OWNER"</b>	Currently only defined as the registered owner of the property or someone acting on their behalf as a management company or agent	Keep current definition and added an amendment to include a lessee, tenant or occupant of a property to allow for enhanced enforcement and increase compliance in a timely and effective manner
4.	Definitions	2.15 NEW <b>"PERSON"</b>	No current definition	Add definition to align with other by-laws that regulate activities related to property
5.	Enforcement	3.2 NEW	No current regulation	Add section to make it an offence to hinder, obstruct or interfere with an Officer, being implemented in all by-laws
6.	Ground Cover	4.3	Current section addresses exemptions to maintaining ground cover height	Keep all current exemptions and add a new subsection e) to allow for exemptions as part of City approved programs intended to promote naturalization, pollination or rejuvenation of yards or gardens, which have become of interest to environmental organizations and the City
7.	Waste Material & Inoperable Vehicles	4.14	Currently prohibits storage of waste in the front yard when the property has a garage, side yard, or storage facility	Amend wording to prohibit storage in the front and side yard when the property has a garage, rear yard, or designated storage facility

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8.	Landscape & Trees	4.23 NEW	No current consideration	Add new section the references the exemption as part of City approved programs intended to promote naturalization, pollination or rejuvenation of yards or gardens as noted in proposed amendment 6.
9.	Offences	10.1	Current wording is outdated and not in alignment with current provincial legislation or City by-laws	Reword to align with current provincial legislation and other City by-laws