

Authority: Licensing and Standards Committee Item 17.2, adopted as amended,
by City of Toronto Council on November 27, 28 and 29, 2012

CITY OF TORONTO

BY-LAW No. 238-2013

**To amend City of Toronto Municipal Code Chapter 489, Grass and Weeds and
Chapter 441, Fees and Charges.**

Whereas under sections 7 and 8 of the *City of Toronto Act, 2006* (the "Act"), the City may pass by-laws in respect of the health, safety and nuisance matters and the economic, social and environmental well-being of the City; and

Whereas under sections 7 and 8 of the Act and the specific power in section 259, the City may pass a by-law imposing fees or charges on persons for services and activities provided or done by or on behalf of it; and

Whereas under sections 7 and 8 of the Act and the specific powers and restrictions respecting delegation in sections 20 to 24, the City may delegate its powers and duties under the Act to an officer or employee of the City, including administrative and quasi-judicial powers and legislative powers of a minor nature as provided in section 21; and

Whereas under section 366 of the Act, the City may pass by-laws providing that a person who contravenes a by-law of the City passed under this Act is guilty of an offence, and under section 370 may establish a system of fines for offences including special fines, in addition to the regular fine for an offence, that are designed to eliminate or reduce any economic advantage or gain from contravening the by-law; and

Whereas under subsections 384(3) and 385(4) of the Act, a by-law under section 366 may also provide that a person who contravenes an order (to discontinue the contravening activity) under subsection 384(1) or an order (requiring certain work to be done) under subsection 385(1) is guilty of an offence; and

Whereas subsection 8(1) of the Act, provides the City with broad authority to provide any service or thing the City considers necessary or desirable for the public; and

Whereas Council has declared its opinion that if land is not maintained free of long grass and weeds, this matter could become or cause a public nuisance; and

Whereas the City provides that the regulation of grass, weeds and natural gardens to the citizens of Toronto as a necessary and desirable service; and

Whereas Council has authorized regulations that will facilitate natural gardens contributing positively to the quality of Toronto's appearance and its visual character to enhance the image and attractiveness of Toronto for its residents, business community, and visitors; and

Whereas the Council of the City of Toronto wishes to enact this by-law in order to clarify that Executive Director, Municipal Licensing and Standards, has the delegated authority to make final decisions respecting natural gardens exemptions and that Community Council has the

delegated authority to hear applications for review from natural garden exemption request denials; and

Whereas notice of the intention to enact this by-law has been provided in accordance with the *Act* and its regulations;

The Council of the City of Toronto enacts:

1. City of Toronto Municipal Code Chapter 489, Grass and Weeds, is amended as follows:

A. By adding the following definitions alphabetically in the appropriate place to § 489-1:

EXECUTIVE DIRECTOR - The Executive Director, Municipal Licensing and Standards, or his or her designate.

B. Subsection 489-3E is deleted and replaced with the following:

E. Exemptions.

(1) An owner may apply for an authorization for an exemption from a prohibition or limitation contained within this chapter on the basis that the growth is exempt as a natural garden by filing with the Executive Director an application in the form prescribed by the Executive Director.

(2) A notice, including notice by placard, given or placed under this section, shall contain the statement that the owner may, upon receipt of notice under this section, within the time prescribed in the notice to comply, request that the issuance of the notice be reviewed and the growth be authorized by the Executive Director on the basis that the growth is exempt as a natural garden by filling with the Executive Director an application in the form prescribed by the Executive Director.

(3) Upon receipt of an application under Subsection 3E(1) or (2), the Executive Director shall give written notice to the Councillor of any ward where the growth is located, and where the request for review is for a growth located on a boundary street between wards, to the Councillors of the adjoining wards.

(4) The Executive Director shall authorize the exemption if all of the following conditions have been met:

(a) All of the Councillors notified under Subsection 3E(3) have either:

[1] Not responded within 14 days of the notice; or

- [2] Responded indicating that they have no objection to the application being approved.
 - (b) The applicant has complied with all terms and conditions of approval of the last exemption issued to them under this section, if any.
 - (c) The applicant has provided the following:
 - [1] The applicant's name, address and telephone number;
 - [2] A general description of the nature of the growth that is subject to the request for an exemption; and
 - [3] A written undertaking, in a form satisfactory to the Executive Director, that the owner or occupant will maintain the natural garden free of noxious and or invasive weeds and in good repair.
 - (d) The growth has been inspected by a City horticulturalist who has recommended approval of the exemption.
- (5) An exemption issued under Subsection 3E(4) shall be subject to the following terms and conditions:
- (a) The natural garden will be restricted to the location set out in the exemption authorization letter;
 - (b) The natural garden will remain well maintained;
 - (c) The natural garden will be kept free of noxious weeds; and
 - (d) Any other conditions respecting health, safety and nuisance as the Executive Director considers advisable.
- (6) Exemption effective.
- (a) Subject to Subsection 3E(6)(b), an exemption authorized by the Executive Director shall take effect 21 days after the issuance of a notice of decision.
 - (b) If an application for review has been made under Subsection 3E(7) within 21 days of the date of the issuance of a notice of decision, the exemption shall not be valid unless the Application is withdrawn or otherwise dealt with under Subsection 489-3E.

- (7) Where the Executive Director refuses to grant an exemption under this section, the applicant shall be notified in writing and advised that they may apply to have the Executive Director's decision reviewed by the Community Council which has jurisdiction for the location of the proposed natural garden by filing an application within 21 days of the date of the Executive Director's notice, along with the applicable fee as set out in Chapter 441, Fees and Charges, with the City Clerk at the address shown on the notice.
- (8) Notice of hearing shall be sent to all residents within 100 metres of the location where the natural garden is proposed to be located as shown on the last revised assessment rolls and at the applicant's expense.
- (9) Where the location of the proposed natural garden under application falls on the boundary street of more than one Community Council, each affected Community Council shall provide its recommendations to Council for its consideration of the application under Subsection 3E(7).
- (10) Council, or the Community Council under delegated authority, may issue or refuse an exemption application made under Subsection 3E(7).
- (11) If the Community Council under delegated authority or Council issues an exemption, the exemption is subject to the conditions set out in Subsection 3E(5), unless the Community Council under delegated authority or Council provides otherwise, and to any other conditions respecting health, safety and nuisance as the Community Council under delegated authority or Council considers advisable.
- (12) A Community Council under delegated authority or Council may require, as a condition of approval, that City staff monitor the natural garden.
- (13) Despite anything contained in this section, where an application for an exemption is made by the City or any of its agencies, boards or commissions:
 - (a) The application shall be submitted directly to the Executive Director by the City department, agency, board or commission seeking the exemption.
 - (b) The fees in Chapter 441, Fees and Charges, do not apply.

2. Schedule 12, Municipal Licensing and Standards, of Appendix C of City of Toronto Municipal Code Chapter 441, Fees and Charges, is amended as follows:

A. By adding the following:

* (To unnumbered column for row numbers)

| * | (To Column I Activity) | (To Column II Fee Description) | (To Column III Category) | (To Column IV Fee Basis) | (To Column V Fee) | (To Column VI Annual Adj.) |
|-----|---|---|--------------------------|--------------------------|-------------------|----------------------------|
| 421 | Maintenance and Standards Exemption Application | Fee for Application to Community Council - Exemption for Natural Garden | Full Cost Recovery | Per application | \$200.00 | No |

Enacted and passed on February 21, 2013.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)