

Modernizing Chapter 489, Grass and Weeds to Streamline Processes and Support Biodiversity

Date: May 6, 2021

To: Planning and Housing Committee

From: Executive Director, Municipal Licensing and Standards

Wards: All

SUMMARY

This report provides an overview of the current process for obtaining a natural garden exemption as outlined in Chapter 489, Grass and Weeds, and recommends bylaw amendments to modernize regulations, streamline enforcement efforts, and enhance public education to support the City of Toronto's efforts to protect pollinators and biodiversity.

The review of Chapter 489, Grass and Weeds was initiated by staff following a report from the Ombudsman in 2018 that outlined concerns with the operational processes for responding to long grass and weeds complaints and issuing natural garden exemptions. However, this work was delayed as a result of the COVID-19 pandemic. This report also responds to Action 8 of Toronto's Biodiversity Strategy, which calls on the City to review policies and bylaws, including Chapter 489, for opportunities to support biodiversity. The City received significant feedback from stakeholders and the public in fall 2020 about the bylaw, including concerns that the natural garden exemption process does not support the goals of other City of Toronto policies and strategies, including the Biodiversity Strategy, Pollinator Protector Strategy, and Toronto Ravine Strategy.

As part of this review, staff undertook a consultation process that received 455 emails from residents, interested organizations and community groups, and held a series of roundtables with subject matter experts in the fields of botany and biodiversity. Staff also conducted a jurisdictional scan of best practices, an analysis of complaints and enforcement, and worked closely with interdivisional partners responsible for the City's biodiversity and pollinator strategies.

In response to the issues identified through this review, this report recommends removing the process for natural garden exemptions and amending the bylaw to require that all properties meet maintenance requirements that focus on health and safety, such as prohibiting specific plant species, managing the height of turfgrass, and ensuring that sightlines are not obstructed.

The proposed list of prohibited plants was developed in consultation with internal partners and external stakeholders to support ecological and human health. Staff recognize that maintaining such a list must be done in a way that is responsive to change, and therefore recommend that it be reviewed on an ongoing basis, in consultation with subject matter experts to ensure accuracy and relevance.

Staff also recommend renaming the bylaw to better reflect the changes proposed in this report, modernizing enforcement provisions, and strengthening public education and communications to support the City's biodiversity efforts.

This report was written in consultation with Parks, Forestry and Recreation, Environment and Energy Division, Toronto Public Health, City Planning, City Clerk's Office, Transportation Services, and Legal Services.

RECOMMENDATIONS

The Executive Director, Municipal Licensing and Standards recommends that:

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

Maximum height of turfgrass

1. Add the following definition for turfgrass to section 489-1:

TURFGRASS: Ground cover primarily made up of various perennial grasses grown for lawns, of a type that forms a dense, uniform turf if mown.

2. Amend section 489-2 by:

- a. replacing the term "grass and weeds" with the term "turfgrass" so that the height requirement applies to turfgrass;
- b. deleting the requirement for removing grass cuttings;
- c. requiring that turfgrass be cut when it exceeds 20 centimeters in length, in addition to height; and
- d. deleting subsection B which described "grass and weeds."

Removing the natural garden exemption

3. Deleting the natural garden exemption process in section 489-3E.

Maintenance requirements

4. Add a new section 489-2.1 as follows:

The owner or occupant of private land shall maintain all vegetative growth on their land according to the following requirements:

- a. Private land shall be kept free of any prohibited plant species designated under the Bylaw;
- b. Vegetative growth on private land shall not obstruct sidewalks or roadways;

- c. Vegetative growth on private land shall not restrict driver and pedestrian sight lines at intersections, driveways, sidewalks, walkways, or visibility to all traffic control devices; and
- d. Any other conditions respecting health and safety as the Executive Director considers advisable.

5. Add a new Schedule A with a list of prohibited plant species as below. It is recommended that staff review the list on an ongoing basis, in consultation with experts to ensure accuracy and relevance.

Canada thistle (*Cirsium arvense*)
Common buckthorn; Glossy buckthorn (*Rhamnus cathartica*; *Frangula alnus*)
Common burdock (*Arctium minus*)
Dog-strangling vine (*Cynanchum rossicum*; *Cynanchum louiseae*)
Field bindweed (*Convolvulus arvensis*)
Garlic mustard (*Alliaria petiolata*)
Giant hogweed (*Heracleum mantegazzianum*)
Japanese knotweed (*Reynoutria japonica* var. *japonica*)
Phragmites (*Phragmites australis* subsp. *australis*)
Poison ivy (*Toxicodendron radicans*)
Purple loosestrife (*Lythrum salicaria*)
Ragweed (*Ambrosia artemisiifolia*)

Offences

6. Update the notice, failure to comply and offence provisions to enable the City to conduct inspections, issue orders for compliance, take remedial action and take any other enforcement activities consistent with the authorities in the City of Toronto Act, 2006, including:

- a. Increasing the maximum fine to \$100,000;
- b. Adding a special fine in an amount equal to any economic gain obtained from non-compliance;
- c. Including offences for obstruction and failure to provide information as required; and
- d. Designating each offence as a continuing offence.

Bylaw name

7. Change the name of the City of Toronto Municipal Code, Chapter 489 to Turfgrass and Prohibited Plants, and update references to the name as necessary.

2. City Council amend Chapter 27, Council Procedures to remove natural garden exemptions from the matters delegated to community councils in § 27-18.4. Delegation to Community Councils.

3. City Council direct that the amendments to City of Toronto Municipal Code Chapter 489, Grass and Weeds, and Chapter 27, Council Procedures, described in recommendations 1 and 2 come into effect January 1, 2022.

4. City Council direct the City Solicitor to prepare the necessary bill(s) required to give effect to Council's decision and to make any necessary minor substantive or stylistic refinements as may be identified by the City Solicitor.

FINANCIAL IMPACT

There is no cost associated with the application process for a natural garden exemption, and therefore removing this process will not have any financial impact. There is currently a \$200 fee applied to property owners who appeal the decision to Community Council, although there have been no appeals in recent years.

Any financial impact arising from the recommendations contained in this report are expected to be minimal and can be accommodated within the existing approved budget.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial implications as identified in the Financial Impact section.

DECISION HISTORY

On October 2 and 3, 2019, City Council adopted IE7.8 Toronto Biodiversity Strategy, with an action item to review policies and bylaws, including Chapter 489, Grass and Weeds, for additional opportunities to support biodiversity.

<https://www.toronto.ca/legdocs/mmis/2019/ie/bgrd/backgroundfile-136906.pdf>

On May 14 and 15, 2019, City Council adopted CC7.1 Ombudsman Toronto 2018 Annual Report for information, which contained an overview of concerns identified with the City's natural garden exemption process and commitments to improve.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.CC7.1>

On November 27, 28 and 29, 2012, City Council adopted LS17.2 Natural Garden Exemption, with amendments to Chapter 489, Grass and Weeds to delegate authority to the Executive Director, Municipal Licensing and Standards to provide exemptions, and Chapter 441, Fees and Charges, to create a fee to recover administrative costs for appeal.

<https://www.toronto.ca/legdocs/mmis/2012/ls/bgrd/backgroundfile-51975.pdf>

On April 15 and 16, 2004, City Council adopted Planning and Transportation Committee Report No. 2, Clause No. 5a, Harmonization of By-laws Concerning Long Grass and Weeds, to harmonize former municipal bylaws and create a new City of Toronto Municipal Code Chapter 489, Grass and Weeds.

<https://www.toronto.ca/legdocs/2004/agendas/council/cc040301/plt2rpt/cl005.pdf>

(archived)

COMMENTS

Background

Toronto Municipal Code Chapter 489, Grass and Weeds requires that grass and weeds on private property must be maintained so that it does not exceed 20 cm (8 inches) in height. The bylaw considers "grass and weeds" to be all noxious weeds and local weeds designated under the provincial Weed Control Act, and any other vegetation growth that does not form part of a natural garden that has been deliberately implemented to produce ground cover. All private land, including residential, commercial, and industrial properties, are included under the bylaw.

The bylaw also outlines a process for property owners and occupants to be exempt from the maximum height provision of the Grass and Weeds bylaw if they maintain a natural garden on their property. While the bylaw does not define "natural gardens", they are generally considered to be managed within a certain boundary and may contain both native and non-native plants. Unlike neglected properties, a natural garden does not contain overgrown plants or invasive weeds. Natural gardens have many environmental benefits and provide habitat for birds, bees, butterflies and other wildlife.

Chapter 489 was created in 2004 as a result of the amalgamation process. Prior to this time, each former municipality had its own bylaw related to the yard maintenance and cutting of grass and weeds. The adoption of the new municipal code chapter repealed these former municipal bylaws. In 2012, amendments were made to the bylaw to provide delegated authority to the Executive Director of MLS to issue natural garden exemptions, and introduced an appeals process through Community Council with an associated fee of \$200.

Current process for natural garden exemptions

The exemption process for a natural garden can be initiated by the property owner proactively once the natural garden has been installed or it can be triggered by a complaint about long grass and weeds in a garden where a notice of violation (NOV) has been issued by a Municipal Licensing and Standards Officer. Where a NOV has been issued, the land owner will be required to apply for an exemption for the natural garden if they wish to keep the garden intact.

Upon receipt of an application, the local Councillor is notified by MLS and is able to communicate any objections within 14 days of being notified. The natural garden is inspected by a City Horticulturalist and a recommendation to approve or refuse the exemption is made. If any portion of the natural garden is on the public right of way, that portion of land will be inspected by Transportation Services to ensure compliance with Municipal Code Chapter 743, Streets and Sidewalks, Use of, including to determine if there are any sightline obstructions or hazards.

If the natural garden meets the criteria outlined in the Chapter 489, an exemption is authorized by the Executive Director of MLS. The exemption is issued to the property, not the applicant. Once an exemption has been issued, it does not expire and does not require renewals in the future.

If an exemption for a natural garden is denied, the applicant will receive a refusal letter detailing the reason for refusal, the criteria for a natural garden as well as the appeal process. If the applicant wishes to appeal the decision, an appeal form must be

submitted to MLS within 21 days of the date of the Executive Director's notice and the applicable fee paid (\$200). The appeal is reviewed by the local Community Council whose decision is final. Since introducing this appeals process and fee in 2012, there have been no appeals taken to Community Council.

2018 Ombudsman Annual Report

In 2018, the Ombudsman Toronto Annual Report made recommendations for the City to clear up confusion around the natural garden exemption process. These recommendations were prompted by complaints from existing exemption holders that were contacted by the City following complaints made regarding the property, requesting the property owner to either trim the grass and weeds or apply for the exemption, despite having already done so.

This highlighted concerns with the existing process for handling complaints regarding natural gardens, and MLS committed to revising staff procedures on this process and ensuring that the transition to a new technology system would allow staff to better record and flag exemptions to prevent such mistakes in the future. Following the release of the Ombudsman's report, MLS intended to begin a review of Chapter 489, Grass and Weeds to address these concerns and explore other potential issues. However, this work was delayed as a result of the COVID-19 pandemic.

Biodiversity Strategy

In 2019, City Council adopted Toronto's first Biodiversity Strategy, which aims to support healthier, more robust biodiversity and increased awareness of nature in Toronto. The Strategy highlights that nature is declining at unprecedented rates, and there is a need for action at a local level. The Strategy includes 23 actions that align with the Toronto Ravine Strategy and other City strategies to enhance the quality and quantity of biodiversity and increase awareness of nature. Action 8 calls on the City of Toronto to review policies and bylaws, including the Grass and Weeds Bylaw, for opportunities to support biodiversity. Staff considered principles and goals of the Biodiversity Strategy as part of this review, including management of invasive species and the importance of local native plant material.

Pollinator Strategy

Toronto is home to a wide range of pollinators, including bees, wasps, flies, butterflies, moths, beetles, and birds. The Toronto Pollinator Protection Strategy identifies a set of guiding principles, priorities and actions that the City and community can take to protect our diverse native pollinator community. The City also has a complimentary PollinateTO Community Grants program to fund pollinator habitat creation projects that educate and engage the community. Proposed changes to Grass and Weeds Bylaw align with principles of the Pollinator Protector Strategy and support the priority to create and enhance pollinator habitat by making it easier for residents to have a natural garden on their private land.

Research and consultation

In reviewing the natural garden exemption process and enabling bylaw, staff undertook research and consultation to inform the recommendations in this report. This included

data analysis, a jurisdictional scan, and engagement with the public and subject matter experts.

Data analysis

Exemption applications

There are currently 108 private properties in Toronto with approved natural garden exemptions. A list of these properties is available online. Once an exemption has been issued, it does not expire and does not require renewals in the future.

Complaints

Between 2016 and 2020, MLS received an average of 5,370 complaints related to grass and weeds each year (see Table 1). Complaints are significantly higher in the active growing season through spring and summer, with May and June typically receiving over 1,000 complaints each month. The number of complaints tend to be higher outside of the downtown core - half (50%) of properties that receive complaints located in Scarborough District, followed by Etobicoke York (30%) and Toronto and East York (20%).

Table 1: Total grass and weeds complaints, by year

Year	Total Complaints
2016	4,933
2017	6,423
2018	6,101
2019	6,867
2020	2,524

The majority of grass and weeds complaints that the City receives are in relation to neglected or vacant properties, and very few are related to natural gardens specifically. For example, between 2016 and 2020, properties that currently hold natural garden exemptions received 200 complaints in total. In the same time period, a total of 1,227 complaints were related to vacant or abandoned properties; 5,583 complaints were related to overgrowth; 1,648 complaints were related to properties with ongoing or recurrent issues; and 1,428 complaints identified concerns about pests or wildlife.

Enforcement

Where property owners or occupants are found in violation of Chapter 489, Grass and Weeds, MLS has most often proceeded by issuing a Notice of Violation to property owners or occupants, outlining the contravention of the bylaw and the time period for correction. Where that correction is not made, MLS has most often undertaken remedial action to ensure compliance with Chapter 489 in the appropriate circumstances (that is, undertaking the necessary work, such as cutting the lawn, and charging the costs of this to the property tax roll of the property owner).

Bylaw Enforcement Officers focus on education first, informing residents of the rules and obligations of property owners, including informing them of the option to apply for a natural garden exemption. The use of enforcement mechanisms has most often been focused on remedying overgrowth on neglected or vacant properties rather than natural gardens.

Between 2016 and 2020, MLS has issued 7,804 Notices of Violation related to grass and weeds. During this same time period, staff undertook remedial action 719 times. Table 2 provides an overview of enforcement efforts related to grass and weeds by year. In most cases, property owners comply after receiving a Notice of Violation.

Table 2: Notices and remedial action, by year

Year	Notices	Remedial Action
2016	1,598	152
2017	2,082	175
2018	1,825	149
2019	1,443	162
2020	856	80
Total	7,804	718

Jurisdictional scan

As part of this bylaw review, staff undertook a jurisdictional scan of twenty other North American jurisdictions to review the ways in which they regulate grass, weeds, gardens and overall yard maintenance.

Staff found that the majority of municipal governments in Ontario have bylaws with similar height restrictions (20 cm or 8 inches) for grass and weeds on private property. Most Ontario municipalities also prohibit all noxious weeds designated under the Provincial Weed Control Act. Many comparable Canadian and American cities have height requirements for grass and weeds as well, although with some variation in the specified height - Edmonton uses 10 cm, Montreal uses 30 cm, Detroit and Washington use 8 inches, and New York City, Portland and Philadelphia use 10 inches.

Gardens, naturalized areas, and/or ornamental plants are exempt from height restrictions in some of these jurisdictions, including Guelph, Hamilton, Richmond Hill, Calgary, New York City, and Chicago. No jurisdiction other than Toronto requires owners or operators of private land to apply for this type of exemption.

Notably, Fredericton, New Brunswick does not have a height restriction for any type of vegetation, and the city's only requirement is that land be maintained free of rag weed, poison ivy, poison sumac and other noxious plants.

Staff also reviewed how jurisdictions have named regulations pertaining to grass, weeds, gardens and overall yard maintenance. Approximately half of the bylaw names in Ontario municipalities include the terms grass and weeds, while the others reference yard and/or property maintenance.

Stakeholder engagement

In October 2020, the City received a public letter signed by 79 organizations and allied professionals outlining concerns with the Grass and Weeds bylaw and the natural garden exemption process. The letter expressed concern that Chapter 489 does not support the City's efforts to protect biodiversity. Signatories requested that the City explicitly facilitate and encourage natural gardens in yards and community-stewarded spaces. Following the receipt of this correspondence, the City received additional letters from organizations and individuals in support of the City reviewing the bylaw and exemption process.

In order to review the bylaw through the lens of environmental stewardship, staff undertook an engagement process with subject matter experts in the fields of botany and biodiversity. Staff held two roundtables with identified experts to discuss policy options for the review and gather feedback.

Subject matter experts expressed support for removing the existing process that requires property owners with natural gardens to apply for an exemption. Participants suggested that the City has a role to play in encouraging natural gardens, and making it easier for residents to support biodiversity. There was also agreement that the bylaw and its enforcement should only be focused on ecological and human health and safety concerns rather than aesthetics.

Attendees emphasized the need to treat all properties equally to ensure this is supported - for example, not specifically defining a natural garden or requiring natural gardens to meet specific criteria that other yards do not need to meet. However, experts did note that turfgrass requires a particularly high level of maintenance, which should be reflected in the bylaw requirements.

Attendees also provided insight into the success of other international jurisdictions, and identified opportunities for the City of Toronto to bolster public education and communications efforts.

Public feedback

Staff also solicited stakeholder and public input on the natural garden exemption via email from March 3 to 31, 2021. Individuals were asked to provide feedback on whether they supported a proposal to remove the requirement for owners/occupants of private land to apply to for a natural garden exemption. MLS received 455 emails from residents, and interested organizations and community groups.

The vast majority of email responses (85%) supported removal of the natural garden exemption requirement for one or more of the following reasons:

- Natural gardens should be encouraged in the city because they provide numerous environmental benefits, including supporting biodiversity and climate resilience, provision of pollinator habitat, and mitigating storm water runoff.
- Encouraging natural gardens aligns with other City of Toronto policies and strategies, including the Biodiversity Strategy, Pollinator Protector Strategy, Toronto Ravine Strategy, and TransformTO.
- Natural gardens are beautiful, and support community engagement.
- Traditional lawns and artificial turf should be discouraged as they do not support pollinators or biodiversity, and are often maintained using chemicals and large amounts of water.
- The current exemption process, as well as the societal norm of traditional lawns is outdated.
- Red tape reduction: the current process is an unnecessary use of City resources.

Only 3% of email responses were from individuals who did not support the proposal for one or more of the following reasons:

- Removing the natural garden exemption process may impact the City's ability to enforce against neglected properties with overgrown vegetation.
- Natural gardens are not aesthetically pleasing and may harbour rodents.

A portion of the emails received (12%) offered broader feedback on how Toronto's Grass and Weeds Bylaw should be improved, including:

- All references to natural gardens should be removed from the Bylaw. Clear health and safety conditions should instead be applied to all properties.
- The terms "grass" and "weeds" are not well defined, and their use should be clarified. There are more than 12,000 grass species.
- The Bylaw should clearly state specific prohibited weeds. Current Bylaw references to noxious weeds regulated under the Weed Control Act are confusing as parts of the Act exempt urban areas.
- Vague and subjective terminology such as "good repair" and "well maintained" should be removed from the Bylaw.
- The City should discourage complaints based on aesthetics, and place a minimum onus on complainants to identify a specific prohibited weed and/or health or safety issue before any enforcement is triggered.

Recommended Changes

Bylaw amendments

1. Maximum height of turfgrass

Current Regulations:

The Grass and Weeds Bylaw requires the owner or occupant of private land to cut grass and weeds and remove the cuttings whenever the growth exceeds 20 centimetres in height. The bylaw considers "grass and weeds" to be all noxious weeds and local weeds designated under the provincial Weed Control Act, and any other vegetation growth that does not form part of a natural garden that has been deliberately implemented to produce ground cover.

Recommendation:

It is recommended that the maximum height provision be amended to clarify what types of grass it applies to. Staff therefore recommend removing references to the terms "grass and weeds" and clarify that the requirement is intended to apply to turfgrass, which is effectively maintained through regular mowing. Turfgrass shall be defined as: Ground cover of various perennial grasses grown for lawns, of a type that forms a dense, uniform turf if mown.

It is also recommended that the requirement for private land owners/occupants to remove cuttings be removed. Leaving turfgrass cuttings on a lawn can support healthy soil as nutrients are returned to the soil during decomposition. Removing the requirement for cuttings to be removed will allow land owners/occupants the choice to leave cuttings to support healthy, nutrient-rich soil.

Staff also recommend that the provision be amended to require turfgrass to be cut when it exceeds 20 centimetres in length, in addition to height. Overgrown turfgrass can lay down and length may be a more appropriate measure in these cases.

Research and Consultation:

Updating the maximum height provision of the Bylaw to clarify that it applies to turfgrass responds to stakeholder and public feedback that use of the terms "grass and weeds" are not well defined and could be more clear as there are thousands of grass species. Maintaining the clarified height provision in the Bylaw will allow MLS to continue to enforce against properties where lawns have been untended or neglected and turfgrass has become overgrown.

Types of grass typically used in turf or traditional lawns can cause pollen allergies when the grasses are allowed to flower. Requiring turfgrass to be cut when growth exceeds 20 centimetres in height prevents turfgrass from flowering and spreading pollen. Additionally, requiring turfgrass to be maintained under 20 centimetres in height aligns with height requirements in many other North American jurisdictions.

Staff recommend clarifying a list of specific plants to be prohibited on all properties; proposed changes are included in the maintenance requirements section below.

2. Removing the natural garden exemption

Current Regulations:

Chapter 489 contains a process for property owners to obtain an exemption from the maximum height provision if they maintain a natural garden on their property. This process is described in detail in the Background section above.

Recommendations:

It is recommended that the City of Toronto make it easier for residents to have a natural garden by amending the Grass and Weeds Bylaw to remove the requirement for owners/occupants of private land to apply to for a natural garden exemption. Natural gardens would continue to be allowed as of right provided they comply with the requirements of Chapter 489. The exemption application and appeals processes are also proposed to be removed from the Bylaw.

Research and Consultation:

The proposed Bylaw amendments are intended to remove any unnecessary barriers to allow residents to maintain a natural garden on their private land. Natural gardens have many environmental benefits and provide habitat for birds, butterflies and other wildlife. The proposed changes also support principles and goals of other City of Toronto policies and strategies, including the Biodiversity Strategy, Pollination Protector Strategy, and Toronto Ravine Strategy.

The natural garden exemption was established at a time when traditional lawns were the norm on private land. The proposed amendments modernize the Bylaw to reflect the broader uses of private yards in the City of Toronto today, including urban farming, pollinator gardens, rain gardens, and ornamental gardens, while protecting the health and safety of all users of the public realm.

Removing the requirement for owners/occupants of private land to apply to for a natural garden exemption will free up staff time to focus on priority items, including issues related to health and safety. Councillors and Community Council will also no longer be required to review exemption applications and appeals.

This recommendation is strongly supported by stakeholders and members of the public who provided feedback. Staff also found that of the other jurisdictions reviewed, none have a similar natural garden exemption process. Additionally, since 2017, MLS has received very few complaints under the Bylaw related to natural garden properties.

Toronto Public Health has advised that removing the natural garden exemption would have minimal risks related to harbouring rodents, risks associated with West Nile Virus, and proliferation of ticks and Lyme disease. These limited risks can be managed effectively by providing relevant education resources to residents.

All private land regulated under the Bylaw, including natural gardens, will still need to meet maintenance requirements to support ecological and human health and safety, as described in the section below.

3. Maintenance requirements

Current Regulations:

Natural gardens that are exempt from the maximum height provision under the Grass and Weeds Bylaw are subject to the following terms and conditions:

- The natural garden will be restricted to the location set out in the exemption authorization letter;
- The natural garden will remain well maintained;
- The natural garden will be kept free of noxious weeds; and
- Any other conditions respecting health, safety and nuisance as the Executive Director considers advisable.

The term noxious weeds refers to all weeds on the provincial Noxious Weeds List, designated under the Weed Control Act. There are currently 25 plant species on the Noxious Weeds List.

Recommendations:

While the proposed height requirement would apply only to turfgrass, staff are recommending that the bylaw contain maintenance requirements which would apply to all vegetative growth on private land, including residential, commercial and industrial properties, to further support biodiversity while protecting human health and safety in Toronto neighbourhoods. Staff also recommend updating language to clarify these minimum requirements.

The proposed requirements are crafted with an aim to support ecological health while also protecting the health and safety of all users of the public realm. The requirements place minimum standards which, for example, ensure any vegetative growth does not grow in such a manner which would put drivers, pedestrians or other highway users at risk.

It is also recommended that all references to the provincial Noxious Weeds List be removed from the Bylaw. Instead, the bylaw should clearly list plant species that are prohibited on private land because they pose a threat to ecological and/or human health and safety within the city of Toronto. The intention of the Noxious Weeds List is to protect agricultural and horticultural lands, and is less relevant within the urban context of Toronto.

Staff therefore propose that all vegetative growth on private land be maintained subject to the following requirements:

- a. Private land will be kept free of any prohibited plant species designated under the Bylaw;
- b. Vegetative growth on private land shall not obstruct sidewalks or roadways;
- c. Vegetative growth on private land shall not restrict driver and pedestrian sight lines at intersections, driveways, sidewalks, walkways, or visibility to all traffic control devices; and
- d. Any other conditions respecting health and safety as the Executive Director considers advisable.

It is recommended that the species listed below be designated as prohibited plants under the Bylaw. This list was developed by Parks, Forestry and Recreation, in consultation with internal partners and external experts in the fields of botany and biodiversity. Staff believe that the proposed prohibited plants will meet the needs of all residents, but also recognize that maintaining such a list must be done in a way that is responsive to change. It is therefore recommended that staff review the list on an ongoing basis, in consultation with experts, to ensure accuracy and relevance. Additional information about each of the prohibited plant species, including harmful characteristics, is provided in the attachment to this report.

Canada thistle (*Cirsium arvense*)
Common buckthorn; Glossy buckthorn (*Rhamnus cathartica*; *Frangula alnus*)
Common burdock (*Arctium minus*)
Dog-strangling vine (*Cynanchum rossicum*; *Cynanchum louiseae*)
Field bindweed (*Convolvulus arvensis*)
Garlic mustard (*Alliaria petiolata*)

Giant hogweed (*Heracleum mantegazzianum*)
Japanese knotweed (*Reynoutria japonica var. japonica*)
Phragmites (*Phragmites australis subsp. australis*)
Poison ivy (*Toxicodendron radicans*)
Purple loosestrife (*Lythrum salicaria*)
Ragweed (*Ambrosia artemisiifolia*)

Research and Consultation:

The proposed health and safety parameters related to sidewalk and roadway obstructions and sightlines (parameters c and d) align with the requirements for property owners maintaining land adjoining the street and boulevards under Toronto Municipal Code, Chapter 743, Streets and Sidewalks, Use Of.

The revised parameters support stakeholder and public feedback that vague and subjective terminology such as "good repair" and "nuisance" should be avoided.

Including a list of prohibited plant species within the Bylaw will provide clarity to residents. Not relying on the provincial Noxious Weeds List allows for the development of a targeted local list of prohibited plants that supports ecological and human health and safety within the specific context of the city of Toronto. Since the Noxious Weeds List is intended to minimize impacts on agricultural and horticultural lands, its application is not required in areas such as Toronto that are far enough away from land used those purposes.

4. Offences

It is recommended that the notice, failure to comply and offences sections of the Bylaw be modernized and updated to enable the City to conduct inspections, issue orders for compliance, take remedial action and take any other enforcement activities consistent with the authorities in the City of Toronto Act, 2006, including:

- a. Increasing the maximum fine to \$100,000;
- b. Adding a special fine in an amount equal to any economic gain obtained from non-compliance;
- c. Including offences for obstruction and failure to provide information as required; and
- d. Designating each offence as a continuing offence.

This will ensure Chapter 489 has enforcement provisions which align with other recently-updated City by-laws.

5. Bylaw name

It is recommended that the name of Chapter 489, Grass and Weeds be changed to Turfgrass and Prohibited Plants.

Staff recommend updating the bylaw name to align with the overall modernization of the bylaw. The current name, Grass and Weeds, has not been reviewed since Chapter 489 was created in 2004 as a result of the amalgamation process. The name no longer reflects how Toronto residents use and maintain their yards today.

The recommended new name supports the proposed amendment to clarify how certain plants are regulated in Toronto. As well, the new name aligns with the staff recommendation to remove the terms "grass and weeds" from the bylaw as they are not well defined and are unclear since there are thousands of grass species. The proposed name change is also supported by subject matter expert stakeholders.

Enforcement and operational improvements

Under the revised bylaw, staff will no longer process natural garden exemptions and therefore will not be proactively inspecting specific properties as part of the application process. However, MLS will continue to investigate complaints received from the public and use available enforcement mechanisms such as Notices of Violation, charges and remedial action where appropriate.

In responding to complaints, MLS will apply its new priority response model to ensure that issues regarding health and safety are addressed in a timely manner. For example, complaints related to long grass that results in a sightline obstruction are currently prioritized over complaints that do not clearly identify a health or safety concern. As the priority response model continues to be implemented across MLS, staff will work towards eliminating the automated advisory letters that are currently issued under Chapter 489.

The City will also encourage complainants to clearly identify their concern when contacting 311, and submit photographic evidence or other information whenever possible to support the City's investigation efforts.

Bylaw Enforcement Officers will receive more detailed and regular training on specific plant species that are prohibited under the revised bylaw to better identify those of concern during investigations. MLS will continue to collaborate with PF&R on this training and education. When needed, PF&R will also provide support and advice to MLS on specific species of plants when needed to support investigation efforts.

Public education

MLS will also work with divisional partners in PF&R, City Planning, the Environment and Energy Division (EED) and Toronto Public Health (TPH) to develop and disseminate educational materials. These materials will help inform residents of the maintenance requirements that all private properties must comply with, which will support enforcement efforts. Educational materials will also describe the benefits of natural gardens for the environment and biodiversity and provide information on related public health and safety concerns that residents may have.

The EED, through the PollinateTO Community Grants Program, has developed best practices for creating and maintaining pollinator-friendly habitat, including lists of native plants, trees and shrubs best suited for Toronto gardens. MLS is also able to leverage the outreach efforts of Live Green Toronto, EED's outreach and engagement team, to deliver specific messages related to the updated Bylaw. City Planning has also developed educational resources through the Biodiversity Strategy and is currently developing a resource for biodiverse back yards.

TPH has existing materials available online to educate residents about maintaining their property to reduce risks related to potentially harmful pests, such as ticks, mosquitoes and rodents. MLS will work to help disseminate materials on prevention of Lyme disease and reducing the risk of West Nile Virus.

Next steps

Staff recommend that amendments to Chapter 489 come into effect as of January 1, 2022, to enable a phased implementation process:

- **Phase 1:** Interim measures will begin immediately to continue throughout the active growing season (spring/summer) of 2021. These measures will include suspending the application process for new natural garden exemptions, developing training materials for staff and updated operational processes, and beginning public education and communications efforts (e.g. updating corporate websites).
- **Phase 2:** Bylaw amendments come into effect in January 1, 2022, to allow for the necessary resourcing and technology changes to be operationalized in advance of the growing season in 2022. Communications regarding the new changes will be communicated to existing holders of natural garden exemptions as well as residents more broadly.

Staff note that these implementation timelines are subject to change as priorities shift and resources may be affected as the COVID-19 pandemic evolves.

Current Natural Garden Exemption Holders

Under the recommended changes to Chapter 489, current natural gardens exemptions would no longer be relevant as of January 1, 2022. Properties with an existing natural garden will need to comply with the updated Chapter 489 upon its coming into force, including the proposed maintenance requirements for all private land. As part of implementation Phase 2, staff will communicate the new changes with existing holders of natural garden exemptions.

CONTACT

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SIGNATURE

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Executive Director, Municipal Licensing and Standards

ATTACHMENTS

Attachment 1 – Recommended Prohibited Plant Species