



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Licensing and By-law Services Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	January 15, 2019
SUBJECT/REPORT NO:	Housekeeping Amendments to the City of Hamilton Property Standards By-law 10-221 and Yard Maintenance By-law 10-118 (PED19011) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Robert Ustrzycki (905) 546-2424 Ext. 4721
SUBMITTED BY:	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That the technical and housekeeping changes to the City of Hamilton Property Standards By-law 10-221 regarding landscaping requirements for approved developments and grading plans, the definition of Director, renewing the penalty provisions, and the maintenance requirements for trees as described in Report PED19011 be approved;
- (b) That the technical and housekeeping changes to the City of Hamilton Yard Maintenance By-law 10-118 regarding the definitions for urban boundary, Director, Officer, and inoperative vehicle, and the maintenance requirements for trees as described in Report PED19011 be approved;
- (c) That the appropriate amending By-law, prepared in a form satisfactory to the City Solicitor, be enacted by Council.

EXECUTIVE SUMMARY

By-law amendments are occasionally required to correct minor errors and as part of continuous improvement efforts, for the most efficient and effective by-laws. Report PED19011 recommends:

- (a) amending the City of Hamilton Property Standards By-law 10-211 (the Property Standards By-law) to:

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- ensure continuous maintenance for developments and approved grading plans;
 - update the Director's title change;
 - revise the penalty provisions; and,
 - vary the maintenance requirements for trees.
- (b) amending the City of Hamilton Yard Maintenance By-law 10-118 to:
- provide clarity to the meaning of "Urban Boundary";
 - update the definition for Director to reflect the Director's title change;
 - revise the definition of Officer to remove reference to Senior Director and revise section 10(1) accordingly;
 - revise the meaning and definition of inoperative vehicle; and,
 - include requirements for the minor maintenance for trees.

The technical and housekeeping changes recommended in this Report are minor in nature, and do not in any way deviate from the by-laws' intent as originally approved and enacted by Council.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

FINANCIAL / STAFFING: N/A

LEGAL: Staff recommendation to use the Yard Maintenance By-law regarding the minor maintenance of trees is the preferred method to the formal lengthy appeal process currently under the Property Standards By-law.

HISTORICAL BACKGROUND

On May 28, 2010, City Council enacted the City of Hamilton Yard Maintenance By-law 10-118 to regulate the outdoor maintenance of private property and repeal By-law 03-118. Since its passing, three amendments to the Yard Maintenance By-law were enacted for technical amendments as a matter of housekeeping.

On September 15, 2010, City Council enacted the City of Hamilton Property Maintenance By-law to prescribe the standards for the maintenance and occupancy of property within the municipality and repeal By-law 03-117. Since its enactment, seven amendments to the Property Standards By-law were passed as a matter of housekeeping or to address specific municipal needs.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The *Building Code Act* allows municipalities to pass a by-law to prescribe standards for the maintenance and occupancy of property.

The *Municipal Act, 2001* authorizes municipalities to pass by-laws respecting the natural environment, protection of persons and property, and well-being of the inhabitants, and also authorizes municipalities to require the owner or occupant of land to clean and clear of land, not including buildings, and to clear refuse or debris from the land.

RELEVANT CONSULTATION

Legal Services was consulted in the preparation of this Report.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

As part of continuous improvement efforts, staff work to improve enforcement activities, including updating various by-laws to address specific municipal needs identified by Council, committees, staff, public and the courts. In addition to continuous improvement efforts, by-laws require changes over time to align with changes to legislation, improved processes and to correct obsolete or imprecise language while maintaining the by-laws' original intent and effectiveness.

Proposed Amendments to the Property Standards By-law

Developments and Approved Grading Plans

On May 8, 2012, City of Hamilton By-law 13-127 amended Subsection 18(1) of the City of Hamilton Property Standards By-law to enforce and correct obstructed swales where no previously approved drainage or grading plans were in place. City staff propose amendments to the current "Landscaping, Etc." section of Property Standards By-law to include maintenance requirements for any and all property under a development agreement or grading plan to support enforcement of development proposals.

Director

The definition of Director in the current Property Standards By-law is out-of-date and requires amendments to reflect the change of the City Director of Parking and By-law Services, now the Director of Licensing and By-law Services.

Penalty Section

The offence and penalty provisions for disobeying a Property Standards Order are found under Section 36 of the *Building Code Act*. Subsections 30(1) and (2) of Property

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Standards By-law 10-221 needs to be amended to reference the offence and penalty provisions under the *Building Code Act*.

Trees

The issuance of an Order under the Property Standard By-law, with the associated procedures and rights of appeal, is the current method to have dead or damaged trees maintained or removed. Staff propose amendments to use the less formal method of Municipal Orders under the Yard Maintenance By-law for the minor maintenance of trees, while continuing to apply Property Standards Orders under the Property Standards By-law for trees that may be hazardous or requiring more involved work or removal.

Proposed Amendments to the Yard Maintenance By-law

Trees

The ability to apply the Yard Maintenance By-law for the removing/trimming of damaged branches or tree limbs is a quick and expeditious method that does not include the lengthy process and rights of appeal found in the Property Standards By-law for the maintenance of trees.

In keeping with the intention to address minor maintenance of damaged trees in a less formal manner, staff propose amending the Yard Maintenance By-law by adding a provision which would require property owners to keep trees free from dead, decayed or damaged limbs or branches.

Urban Boundary

Section 3 of the City of Hamilton Yard Maintenance By-law requires property owners within the urban boundary to maintain overgrown vegetation in their yards. Subsection 2(1) of the By-law defines urban boundary to mean the urban boundary of the City as defined in the Official Plan(s) for the City. Although Rural Settlement Areas (RSA) are identified and delineated in the City's Rural Official Plan, the definition of urban boundary in the Yard Maintenance By-law does not precisely speak of the RSA, clouding public interpretation. To clarify that the RSA are included as being within the urban boundary, staff propose revising the definition of urban boundary by adding reference to the "Rural Settlement Areas".

Director and Officer

The definitions of Director and Officer within the current Yard Maintenance By-law are out-of-date and require amendments to reflect the change of the City Director of Parking and By-law Services, now the Director of Licensing and By-law Services. A

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corresponding amending to section 10(1) is also required in keeping with the changes to the definition of Officer.

Inoperative Vehicle

The definition of “inoperative vehicle” in the current Yard Maintenance By-law is outdated and obsolete to the vehicle/permit holder regime under the *Highway Traffic Act*. The intent of the “inoperative vehicle” provisions is to apply to all vehicles that are dismantled, broken or incomplete, decayed or dilapidated, whether or not they have a number plate with current validation. Staff propose the following amendment to the definition section that properly reflects the meaning of inoperative vehicles, and that includes a motorized snow vehicle:

“**inoperative vehicle**” means a vehicle and a motorized snow vehicle, as those terms are defined in the *Highway Traffic Act*, that may not be lawfully operated on a highway for any of the following reasons:

- (i) it has missing, broken, incomplete, decayed, or damaged parts or components; or,
- (ii) it is in a derelict condition.

ALTERNATIVES FOR CONSIDERATION

N/A

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

N/A

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