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**Subject:** Importance of biodiversity and changes to the "weed" bylaw

**From:** Susan MacMillan

**Sent:** Thursday, August 8, 2024 12:17 AM

**To:** Office of the Mayor <[Officeofthe.Mayor@hamilton.ca](mailto:Officeofthe.Mayor@hamilton.ca)>

**Cc:** Susan MacMillan; Municipal Law Enforcement <[mle@hamilton.ca](mailto:mle@hamilton.ca)>; PW Horticulture <[PW Horticulture@hamilton.ca](mailto:PW Horticulture@hamilton.ca)>

**Subject:** Importance of biodiversity and changes to the "weed" bylaw

Dear Honorable Mayor Horwath and City Staff

Attached is the following letter in the hope that you will make positive changes to the relevant bylaws.

Sincerely,

Susan MacMillan

Secretary Ontario Horticultural Association (OHA) District 6 and D6 Assistant District Director

President, Flamborough Horticultural Society

### **AN OPEN LETTER TO CANADIAN MUNICIPALITIES**

Imagine a future where community well-being and the environment thrive together, supported by forward-thinking municipal policies. Across Canada, people are learning about the many benefits of habitat gardens, spaces where traditional turfgrass lawns have been transformed into vibrant ecosystems. These gardens are carefully cultivated with plants that attract and support a diversity of wildlife including birds, bees, and butterflies. Habitat gardens demonstrate a proactive, local response to the global challenges of climate change and loss of biodiversity. However, municipal property standards, practices, and bylaws can limit the potential of these personal and community initiatives. In response, the Canadian Society of Landscape Architects (CSLA), the Canadian Wildlife Federation (CWF), the David Suzuki Foundation (DSF), the Ecological Design Lab located at Toronto Metropolitan University, and renowned author and environmental advocate Lorraine Johnson have joined forces. Together, we are advocating for the reform of municipal bylaws to better support the development of habitat gardens that enrich our communities, improve quality of life, and contribute to ecological stewardship.

We acknowledge and celebrate the efforts of municipalities to-date, and offer our encouragement and support to further advance essential bylaw reform and enforcement policies and procedures. Through this open letter we aim to bolster the efforts of residents and organizations advocating for municipal bylaw reform and to encourage municipalities to be leaders in ecological stewardship. To make a real difference, we must act decisively and collaboratively. Municipalities must lead by example, support their local champions, **and take steps to inform the wider community**. Through this approach, municipalities can create a powerful momentum for transforming our landscape practices and policies.

### **WE CALL ON CANADIAN MUNICIPALITIES TO:**

- 1. Reform municipal bylaws:** Revise existing property standard bylaws that discourage or prohibit habitat gardens, ensuring that new versions support biodiversity and ecological health.
- 2. Initiate additional bylaw enforcement training:** Bylaw enforcement policies and procedures must include training for bylaw enforcement officers on native and prohibited plant identification, essential and permitted habitat features, community relations, and the legal rights of gardeners to express their environmental ethics.
- 3. Lead by example:** Insist on a high level of ecological gardening awareness, and practice among city employees tending to public gardens, green infrastructure, natural areas and other lands. This includes growing larval host plants.
- 4. Commit to community outreach and education:** Effective outreach programs are crucial for shifting public perceptions and fostering a deeper understanding of sustainable practices. Municipalities should partner with community leaders and committed organizations to deliver habitat garden resources and events, and install and maintain habitat gardens on public land. Through these actions, your municipality can transform landscapes into thriving ecosystems with enhanced biodiversity and climate change resilience, improving the quality of life for all residents. As we advance towards more sustainable and resilient communities, we remain committed to supporting municipalities, organizations, and individuals in their efforts to implement habitat gardens. Our collective expertise in environmental advocacy, ecological research, education and design uniquely positions us to support bylaw reform, bylaw officer training, the development of enforcement policies and procedures, and the creation and delivery of public education and engagement programs.

For your convenience, we have compiled a backgrounder with additional information on the benefits of habitat gardens, the challenges associated with current bylaws, and a link to existing resources available to help you get started.

If you would like to receive an invitation to a related virtual conversation taking place later in 2024 or early in 2025, please complete this questionnaire. [Bylaws for Biodiversity Survey \(surveymonkey.com\)](https://www.surveymonkey.com) Note that the information collected will only be used by the David Suzuki Foundation to generate a mailing list for the virtual conversation. If you have any additional questions, please feel free to contact any of our organizations directly. We look forward to collaborating with and supporting municipalities working towards enhancing biodiversity within their communities.

Sincerely,

Catherine Berris, RLA, RPP, BCSLA, FCSLA, ASLA President, Canadian Society of Landscape Architects

Victoria Woodhouse, MSc Habitat Program Manager, Canadian Wildlife Federation

Sarah Coulber Education Specialist, Canadian Wildlife Federation

Jay Ritchlin Director General, BC and Western Region David Suzuki Foundation

Prof. Nina-Marie E. Lister, MCIP, RPP, Hon. ASLA Professor, School of Urban & Regional Planning Director, Ecological Design Lab Toronto Metropolitan University

Lorraine Johnson Canadian Author / Environmental Advocate

**What are habitat gardens?** Habitat gardens, also known as pollinator gardens, native plant gardens or naturalized landscapes, are spaces where traditional turfgrass lawns have been transformed into vibrant ecosystems. These gardens are carefully cultivated with plants that attract and support a diverse range of wildlife, including birds, bees, butterflies, and other beneficial organisms. Habitat gardens can fit in with a variety of gardening styles. They are versatile, fitting various sizes and shapes, and can be developed in both private and public spaces, including residential yards, community parks, school yards, hedgerows and public rights-of-way. However, they are often designed to look like nature and can appear different from conventional old style gardens. Some people may think they look “messy” because habitat gardens are continually changing as vegetation grows, dies, decomposes and regenerates over time.

## **BENEFITS OF HABITAT GARDENS**

1. Increase Biodiversity: Habitat gardens support a variety of pollinators, birds, and other wildlife, and increase biological diversity.
2. Improve Air and Water Quality: Habitat gardens play a critical role in filtering pollutants from the air and water.
3. Reduce Erosion and Improve Soil Quality: Native meadow and prairie plants have deep root systems that enhance soil structure, increase water infiltration, and reduce runoff, preventing soil erosion and water pollution.
4. Enhance Urban Resilience: Habitat gardens provide natural cooling for cities, thereby reducing the unhealthy urban heat island effect.
5. Manage Stormwater: Habitat gardens can reduce local flooding by storing and slowing down stormwater, reducing the burden on stormwater infrastructure during extreme events.
6. Reduce Water Use: Native plants matched to landscape conditions are resilient and often require less irrigation during times of drought.
7. Sequester Carbon: By increasing plant biomass (both above and below the ground), habitat gardens store more carbon and contribute to climate change mitigation, through a process called carbon sequestration.
8. Enhance Health and Well-being: Habitat gardens connect us with nature, offering benefits that reduce stress and increase mental health and well-being, improving the quality of life.
9. Reduce maintenance costs: By reducing the need for extensive lawn care, such as reduced mowing, watering, chemical treatments, and yard waste collection, habitat gardens can offer cost savings for property owners, especially municipalities tasked with maintaining large areas of public land.

## **The Challenges with Mowed Lawns and Current Bylaws**

Conventional mowed lawns (turfgrass) that dominate our communities offer minimal ecological value and come with steep environmental costs, including excessive water use, greenhouse gas emissions from mowing, and reliance on chemicals. These lawns can also increase vulnerability to local flooding. Fortunately, there is a cultural shift happening towards habitat gardens. **However, most municipal property standards bylaws (sometimes called “grass and weeds” bylaws) remain outdated and do not reflect current environmental, social, and economic realities.** These municipal bylaws can place barriers, discourage, and/or disallow various naturalization practices, even when a municipality has good intentions and sustainable environmental policies.

**More specifically, municipal bylaws often:**

- Prohibit “weeds” without defining the species being referred to as “weeds,” leading to uncertainty for residents and subjective enforcement by bylaw officers who might not understand the difference between a noxious weed and wildflowers.
- They arbitrarily prohibit the growth of vegetation beyond specified heights even in the absence of any sightline issues.
- Present manicured mowed lawns as the approved standard, with deviation from a manicured lawn requiring special permission.
- Restrict the use of native plant species under the guise of weed control.
- Disallow habitat features, such as nurse logs, and habitat maintenance practices such as leaving fallen leaves and plant stems in place in gardens. **These bylaws conflict with the growing body of evidence that supports the environmental benefits of habitat gardens, naturalized landscapes, green infrastructure and nature-based solutions for climate adaptation.** And consequently, they limit the ability of gardeners to implement sustainable practices that support biodiversity and ecological health. Facing legal or financial penalties for cultivating habitat gardens can also impose financial burdens on well-intentioned gardeners. Furthermore, the stress and stigma of being accused of wrongdoing, despite having intentions to promote environmental health, can significantly impact an individual’s well-being. As communities work towards sustainable futures, **it is crucial that municipal policies evolve to support, rather than penalize, positive environmental efforts.**

## Legal and Rights-Based Arguments

Habitat gardeners are not the only ones at risk when bylaws conflict with sustainable environmental policies. Municipalities that haven’t updated or modernized their property standards, practices, and bylaws may be opening themselves up to the expense and liability of court challenges. The case of *Bell v. City of Toronto* (1997) set a significant legal precedent in Canada by recognizing habitat gardens as a form of expression protected under the Charter of Rights and Freedoms. Legal interpretations of this decision have suggested that municipalities should avoid aesthetically-based terms common in bylaws, such as “excessive growth”, as they are vague and therefore unenforceable. The legal perspectives on this issue are crucial as they underscore the need for municipal bylaws that conform to Court rulings and promote public environmental interests.

**Therefore, it is imperative for municipalities to review and revise their bylaws to:**

1. Adopt landscape maintenance standards that support, rather than prevent, biodiversity efforts.
2. Promote the cultivation of native species and biodiverse landscapes such as pollinator gardens.
3. Support the broader environmental and community goals that are increasingly vital in the face of climate change and biodiversity loss.

## FEATURES OF BIODIVERSITY-SUPPORTING BYLAWS:

- List prohibited plants rather than using vague and subjective terms such as “weeds.” • Engage with horticulture communities and Rights holders to develop the list of prohibited plants. See the "Grow Me Instead" brochure available at <https://www.ontarioinvasiveplants.ca/wp-content/uploads/2020/04/Southern-Grow-Me-Instead-1.pdf>
- Specify that height restrictions apply to mowed lawns (turfgrass), **not nonturfgrass** plants that do not obstruct sightlines.
- Focus on health and safety rather than aesthetics, and avoid the use of subjective, aesthetically-based terms such as “excessive growth” and “tidy.”
- Offer clear support for the protection of habitat elements including fallen leaves and logs, and old plant stalks. Helpful resources for municipalities and advocacy groups are available for download under Bylaws for Biodiversity, including a research report on municipal codes and a Toolkit for Local Governments developed by the Ecological Design Lab at the Toronto Metropolitan University.

## Additional Actions for Municipalities

For municipalities that have already taken the first steps towards supporting habitat gardens and enhancing biodiversity through updated policies and bylaws, there are additional actions you can take to continue to advocate for change. Here are some examples: Demonstration Gardens: Make space for, support, and lead the creation of habitat gardens on public lands to serve as highly-visible examples of the ecological and societal benefits of sustainable landscape management.

## Collaboration and Partnerships:

Foster collaboration among municipalities, community groups, environmental organizations, educational institutions, and professional associations. Sharing knowledge, resources, and best practices is essential for effectively promoting, implementing and maintaining habitat gardens.

**Advocate for Change:**

Encourage municipal staff and elected officials to lead the call for bylaw reform. Celebrate the actions of your local champions, organize public meetings, and prioritize initiatives that promote sustainable landscape practices in your community.

**Incentive Programs:**

Create incentive programs that motivate residents to transform their mowed grass yards into habitat gardens. Offer rebates, recognition awards, and technical support services to facilitate this transition. These incentives promote active participation and demonstrate municipal commitment to ecological stewardship.

**Conduct a Natural Asset Inventory:**

Develop a Natural Asset Inventory and Management Plan, and set goals/targets for implementing natural infrastructure in collaboration with the efforts of residents and local organizations.

**THE CANADIAN SOCIETY OF LANDSCAPE ARCHITECTS**

The Canadian Society of Landscape Architects (CSLA) is the professional, non-profit organization committed to promoting the art, science, and practice of landscape architecture in Canada. This year, while celebrating its 90th anniversary, the society represents over 3,200 members, including landscape architects, associates/interns, and students. The CSLA is dedicated to elevating public awareness of landscape architecture and advocating on behalf of national issues pertinent to the profession including urban design and renewal, parks and green space planning, the development of sustainable and equitable communities, and adapting to climate change. The landscape architecture profession embraces designing with nature by employing innovative solutions to tackle intricate design challenges. This blend ensures a balanced consideration of societal needs with the preservation of the natural environment. Learn more about the CSLA here. [csla-aapc.ca](http://csla-aapc.ca)

**DAVID SUZUKI FOUNDATION**

Founded in 1990, the David Suzuki Foundation (DSF) is a national, bilingual non-profit organization headquartered in Vancouver, with offices in Toronto and Montreal. We are guided by the fundamental truth that we are interconnected with nature, and with each other. What we do to the planet and its living creatures, we do to ourselves. Through research, education, policy analysis and community engagement, we work to protect and restore the natural environment, and help create a sustainable Canada. We regularly collaborate with non-profit and community organizations, all levels of government, businesses and individuals. Learn more about DSF here. [Davidsuzuki.org](http://Davidsuzuki.org)

**CANADIAN WILDLIFE CANADIAN WILDLIFE FEDERATION FEDERATION FÉDÉRATION CANADIENNE DE LA FAUNE**

The Canadian Wildlife Federation is a national, not-for-profit charitable organization dedicated to conserving Canada's wildlife and habitats for the use and enjoyment of all. By spreading knowledge of human impacts on wildlife and the environment, carrying out actions to conserve and restore species and habitats, developing and delivering conservation education programs, advocating for changes to government policy and programs, and co-operating with like-minded partners, CWF encourages a future in which Canadians can live in harmony with nature. [CanadianWildlifeFederation.ca](http://CanadianWildlifeFederation.ca)

**ECOLOGICAL DESIGN LAB** Located at Toronto Metropolitan University, the Ecological Design Lab connects people to nature in cities. We "think, make, and do" collaborative design-research and practice, developing nature-based solutions (NbS) for biodiversity recovery and climate resilience. [ecologicaldesignlab.ca](http://ecologicaldesignlab.ca)

**LORRAINE JOHNSON Author.** Advocate for habitat. Lorraine is the author of numerous books on gardening with native plants and creating habitat gardens, including A Garden for the Rusty-Patched Bumblebee (co-written with Sheila Colla), 100 Easy-to-Grow Native Plants for Canadian Gardens, and Tending the Earth: A Gardener's Manifesto. Lorraine's work focuses on enhancing biodiversity; advocating for the reform of grass and weeds bylaws; supporting urban food production; and on land stewardship as relationship-building. Learn more about Lorraine's work here. [www.lorrainejohnson.ca](http://www.lorrainejohnson.ca)