

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Parking and By-law Services Division

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: March 20, 2012	
SUBJECT/REPORT NO: Amendment to the Yard Maintenance By-law 10-118 (PED10112(a)) (City Wide)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Marty Hazell 905-546-2424 Ext. 4588 Glyn Wide 905-546-2424 Ext. 5413
SIGNATURE:	

RECOMMENDATIONS

- a) That the Yard Maintenance By-law No. 10-118 be amended to prohibit a property owner from draining a pool, pond, rain water barrel or similar container onto a neighbouring property; and,
- b) That the draft by-law attached as Appendix "A" to Report PED10112(a), which has been prepared in a form satisfactory to the City Solicitor, be enacted.

EXECUTIVE SUMMARY

This Report is in response to the December 6, 2011 Planning Committee directive that staff investigate and report on by-law requirements dealing with the drainage of pools, ponds or rain water barrels onto neighbouring properties.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial/Staffing/Legal: N/A

HISTORICAL BACKGROUND (Chronology of events)

At the December 6, 2011 Planning Committee meeting, Councillor Maria Pearson requested a Report, and staff were directed to "...provide suggested amendments to the Property Standards By-law to address the discharging of any source of water (i.e. pools, ponds, rain water barrels) and have a Report come back to the Planning Committee in the first quarter of 2012."

POLICY IMPLICATIONS

N/A

RELEVANT CONSULTATION

Legal Services and Public Works were consulted in the preparation of this Report.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

The Property Standards By-Law 10-221 and the Yard Maintenance By-Law 10-118 currently contain provisions related to drainage on private property as follows:

Property Standards: When the City's Property Standards By-law was repealed and replaced in 2010, the requirements that a private property owner ensure storm water drained from their property not cause erosion or other damage to an adjoining property and storm water and sump pump and air-conditioner discharge not drain on to a sidewalk, road allowance or stairway were continued. The requirements were rewritten to be more easily understood and, in the case of storm water drainage, expanded to more generally prevent "erosion or other damage to adjoining property" in place of the more limited prohibition on the storm water entering basements.

"21(1) Storm water including storm water discharged from a roof shall be drained from a yard so as to eliminate recurrent standing water or surface ponding, and such drainage shall:

- (a) be directed or limited so as to prevent erosion or other damage to an adjoining property;
- (b) shall not be permitted on a sidewalk, road allowance or stairway.

21(2) Discharge from a sump pump or an air conditioner shall not be permitted to discharge on adjoining property, a sidewalk, road allowance or stairway.”

Yard Maintenance By-law: When the Yard Maintenance By-law was repealed and replaced in 2010, the requirements that a property owner keep drains on their property operational and in repair and free from obstruction were continued. The requirements were rewritten to be more easily understood, but otherwise were unchanged.

“7(1) Every owner or occupant of property on which there is a private drain shall keep their drain operational and in repair.

7(2) No owner or occupant of property shall obstruct or permit the obstruction of a private drain on their property, provided only that the subsequent connection of their property's private sewage system to the City's sanitary sewer in a manner approved by the City shall be permitted as a replacement to a private sanitary drain.”

The above provisions are intended to correct flooding caused by blocked drainage and storm water drainage causing damage to public or private property. However, there are no current by-law requirements dealing with the drainage of pools, ponds or rain water barrels onto neighbouring properties.

The drainage of pools, ponds or rain water barrels onto neighbouring properties has not been a chronic source of complaint. However, to address the matter, staff recommends that the Yard Maintenance By-Law be amended to prohibit a property owner from draining a pool, pond, rain water barrel or similar container onto a neighbouring property. Staff further recommends that the amendment also prohibit draining into a sanitary/storm/combined sewer unless this is done in compliance with the Sewer Use By-law.

Staff recommend amending the Yard Maintenance By-Law as opposed to the Property Standards By-law because this issue is not related to a structural deficiency and can be addressed quickly without resorting to an appeal.

ALTERNATIVES FOR CONSIDERATION

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

N/A

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability,
3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development,
6. Environmental Stewardship, 7. Healthy Community

Healthy Community:

- ◆ an efficient and effective by-law enforcement program is critical to community quality of life and public safety.

APPENDICES / SCHEDULES

Appendix "A" to Report PED10112(a) - Amending By-law

MH/GW/dt

Authority: Item , Committee
Report (Staff report number)
CM: Date

Bill No.

CITY OF HAMILTON

BY-LAW NO. _____

To Amend By-law No. 10-118, a By-law to Regulate Exterior Property Maintenance

WHEREAS Council enacted a by-law to regulate exterior property maintenance being City of Hamilton By-law No. 10-118;

AND WHEREAS Council wishes to amend City of Hamilton By-law No. 10-118 to provide for the draining of swimming pools, hot tubs, spas, water features or similar water containers;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. By-law No. 10-118 is amended by adding the following new section after section 7:

**SWIMMING POOLS, HOT TUBS, SPAS, WATER FEATURES, RAIN
BARRELS AND SIMILAR WATER CONTAINERS**

- 7.1 Every owner or occupant of property shall ensure that water from a swimming pool, hot tub, spa, water feature, rain barrel or similar water container is not drained:
 - (a) on to an adjacent property;
 - (b) into a sanitary sewer, a storm sewer or a combined sewer unless the Sewer Use By-law is complied with.

2. This By-law comes into force on the day it is passed.

PASSED this _____ day of _____, 20 .

_____	_____
R. Bratina Mayor	R. Caterini City Clerk