

To: Corporate Services Committee

From: Tracy Adams, Commissioner,
Corporate Services Department

Report Number: CORP-22-39

Date of Report: May 4, 2022

Date of Meeting: May 9, 2022

Subject: Proposed Amendments to the Lot Maintenance By-law 127-2007 and Property Standards By-law 1-2002

Ward: All Wards

File: 03-05

1.0 Purpose

The purpose of this report is to address Item 25 of the “Community Safety, Security and Well-Being in Oshawa’s Downtown Area Action Plan” found in Attachment 2 to Report [CNCL-21-72](#) dated September 22, 2021 as follows:

“Investigate the development of a property beautification by-law that would address property standards and lot maintenance, and have a shorter service level timeline.”

Attachment 1 is a summary of municipal comparators to benchmark against other by-laws that address property beautification issues.

2.0 Recommendation

That the Corporate Services Committee recommend to City Council:

That Council approve a by-law to further amend Lot Maintenance By-law 127-2007, as amended, and Property Standards By-law 1-2002, as amended, as detailed in Section 5.4 of Report CORP-22-39 "Proposed Amendments to the Lot Maintenance By-law 127-2007 and Property Standards By-law 1-2002", dated May 4, 2022 in a form and content acceptable to Legal Services and the Commissioner of Corporate Services.

3.0 Executive Summary

Not applicable.

4.0 Input From Other Sources

- Engineering Services
- Legal Services
- Operations Services

In addition, staff conducted a review of property beautification, lot maintenance, boulevard and/or maintenance-related by-laws from the following municipalities: Ajax, Aurora, Clarington, Halton Hills, Hamilton, Kitchener, London, Markham, Pickering, and Whitby.

5.0 Analysis

5.1 Background

5.1.1 Proposed Community Safety, Security and Well-Being in Oshawa’s Downtown Area Action Plan

At the September 27, 2021 Council meeting, the Proposed Community Safety, Security and Well-Being in Oshawa’s Downtown Area Action Plan was endorsed by City Council. As a result of Council’s endorsement of the Plan, staff were directed to:

“Investigate the development of a property beautification by-law that would address property standards and lot maintenance, and have a shorter service level timeline.”
(Item 25)

5.1.2 Property Maintenance and/or Community Image Issues and Existing City By-laws

Several City by-laws currently address property maintenance and/or community image issues (referred hereafter to as “property maintenance issues”), including those outlined in **Table 1**. When dealing with a property maintenance issue, the problem may exist on the boulevard, the lot, or both.

Table 1 City of Oshawa Property Maintenance By-laws

By-law	Authority	Application	Service Level	Example of Issues Addressed
Boulevard By-law 136-2006, as amended (“Boulevard By-law”)	Municipal Act, 2001, S.O. 2001, c.25	Boulevard	20 business days	<ul style="list-style-type: none"> • Debris/waste • Long grass and weeds • Hardscaping and landscaping regulations • Setbacks and other safety standards • Fixture maintenance • Birdfeeders

By-law	Authority	Application	Service Level	Example of Issues Addressed
Lot Maintenance By-law 127-2007, as amended (“Lot Maintenance By-law”)	Municipal Act, 2001, S.O. 2001, c.25	Lot	10-20 business days	<ul style="list-style-type: none"> • Waste (e.g. unwanted/ discarded/ unusable items, garbage, debris, litter, etc.) • Long grass and weeds • Standing water • Excavations/ trenches/ ditches • Dumping • Birdfeeders
Property Standards By-law 1-2002, as amended (“Property Standards By-law”)	Building Code Act, 1992, S.O. c.23 (“Building Code Act, 1992”)	Lot	20-80 business days	<ul style="list-style-type: none"> • Graffiti • Waste, including derelict vehicles • Snow and ice on walkways, stairs, driveways, etc. (excluding sidewalks) • Many other interior and exterior minimum standards related to the maintenance and occupancy of buildings, structures, and surrounding lands, including heating and ventilation systems, roofs, etc.

Note: In 2021, the average time to address a Lot Maintenance Complaint was 12 calendar days. Additionally, the average time to address a Boulevard Complaint was 10.9 calendar days, and for a Property Standards Complaint it was 18.7 calendar days.

Boulevard By-law 136-2006, as amended

The Boulevard By-law regulates the maintenance, occupancy, use of, and other matters pertaining to boulevards. In 2020, the Boulevard By-law was amended to address the placement of birdfeeders on boulevards and associated debris. Recently, the Boulevard By-law was updated to include tiered and escalating Administrative Monetary Penalties (A.M.P.s) and additional methods of service.

Lot Maintenance By-law 127-2007, as amended

The City’s Lot Maintenance By-law was introduced in 2007 specifically to address community image issues that were “negatively impacted by messy and untidy properties” (see Report [FA-07-188](#)). The intention was to “reduce compliance time frames and offer new methods of fines for repeat and or continuous offences”. In 2020, the Lot Maintenance

By-law was amended to address the placement of birdfeeders on lots and associated debris. The Lot Maintenance By-law was also recently updated to include tiered and escalating A.M.P.s and additional methods of service.

Property Standards By-law 1-2002, as amended

The City's Property Standards By-law regulates minimum standards for the maintenance and occupancy of buildings, structures, and surrounding lands. It is passed pursuant to the Building Code Act, 1992 and addresses more significant issues (e.g. HVAC components, structural issues, guards and handrails, etc.), as well as more minor issues (e.g. snow and ice on private property walkways and driveways). These issues are often more costly or time-intensive to repair/replace/remove. On November 22, 2021, the Property Standards By-law was amended (see Report [CORP-21-55](#)) to include tiered and escalating A.M.P.s, as well as standards to ensure safe and clean living spaces for tenants while clearly articulating requirements for landlords/property owners.

5.1.3 Existing By-laws and Appeal Processes

Under the Boulevard By-law and Lot Maintenance By-law, property owners have ten (10) calendar days to appeal Work Orders after being served. The appeal is then heard at a scheduled Hearing. An appeal of a Work Order related to these by-laws does not operate as a stay of the Work Order, although if the City were to proceed with remedial action before the scheduled Hearing, and the appeal was successful, the City would not be able to recover the accrued costs of the remedial work.

The Property Standards By-law appeal process is stipulated by the Building Code Act, 1992. An appeal of an Order operates as a stay of the Order, meaning the compliance date is essentially put "on hold". Property owners have fourteen (14) calendar days to appeal an Order after being served. Service timelines are also established within the Building Code Act. If served by registered mail, service is deemed after five (5) calendar days of mailing. A minimum of nineteen (19) calendar days is required to be given for compliance due to these service and appeal processes stipulated by the Building Code Act, 1992.

Notwithstanding the above, it is appropriate to maintain appeal processes for property maintenance issues that may be more significant (e.g. those typically addressed through the Property Standards By-law or the Boulevard By-law) as a property owner may want/need to dispute the Order on the basis that there is no contravention, that the cost of remediation is great and/or they may need an extension on the time prescribed to comply. Accordingly, an appeal process allows a formal, impartial and objective review process when dealing with more significant, costly, and/or time-intensive issues. The Property Standards Committee or Hearings Officer may confirm, rescind, extend or modify Orders, depending on the case brought forward by the property owner.

Note: Emergent health and safety issues can still be addressed in a timely manner, despite the appeal process stipulated through the Property Standards By-law.

5.2 Staff Review of Property Maintenance By-laws and Timely Resolution

The City by-laws referenced above contain appeal processes should a property owner disagree with the requirements of a Work Order. These appeals may result in extended timeframes for compliance resulting in continued unfavourable conditions and appearance to community image and properties.

As mentioned earlier, the City's Lot Maintenance By-law was established to address community and property image and appearance issues (e.g. long grass, waste and debris, etc.) which tend to be maintenance issues of a minor nature and can be addressed rather quickly. A staff review has determined that it is necessary to remove the Lot Maintenance By-law appeal process to ensure community and property image issues are addressed in a timelier manner. Removing the appeal process will allow the City to achieve faster compliance. However, when undertaking a remedial order process (e.g. issuing a Work Order) appropriate time must be provided to ensure service requirements are met and that a property owner is provided the appropriate time to bring their property into compliance.

5.3 Municipal Benchmarking

A scan of municipal by-laws found that some municipalities have adopted singular property beautification-related by-laws, while others address property maintenance through multiple specialized by-laws, such as lot maintenance, boulevard and property standards by-laws. With the exception of Whitby, Durham Region lakeshore municipalities do not have singular by-laws specifically focused on "property beautification" that address both lots and boulevards (like the Keep Markham Beautiful By-law). Instead, minor maintenance issues are typically addressed through specialized and technical by-laws, including property standards by-laws and lot- and boulevard-specific maintenance by-laws. This is in alignment with the City's current approach. Attachment 1 provides the results of the municipal benchmarking.

In addition, municipal benchmarking confirmed that removing the appeal process from the Lot Maintenance By-law is consistent with other municipalities. Furthermore, it has been identified that it may also be more appropriate to include additional community image and appearance issues, such as graffiti and snow and ice on private property exterior walkways, exterior stairwells and driveways, in the Lot Maintenance By-law.

5.4 Proposed Enhancements to the City's Existing Lot Maintenance By-law

After reviewing existing by-laws in other municipalities and the City's current by-laws, staff have determined that the City's existing by-laws address a wide variety of property maintenance issues; however, some technical amendments to the Lot Maintenance By-law would improve efficiency, remove lengthy appeal timeframes and enable staff to address many minor maintenance issues in a shorter period of time to address community image and property beautification issues. For example, currently when there are minor maintenance issues present on both a lot and the abutting boulevard (e.g. long grass and weeds on the lot and boulevard, birdfeeder debris on the boulevard and graffiti on a private fence), multiple internal staff files are opened and multiple Work Orders under several by-laws are issued. By amending the Lot Maintenance By-law as described in Section 5.4, staff will instead be able to issue one (1) Work Order pursuant to the Lot Maintenance By-

law to address a variety of these minor maintenance issues on the lot and abutting boulevards.

The following enhancements to the City's Lot Maintenance By-law are recommended at this time:

- Remove the existing appeal provisions to ensure timely resolution.
- Add provision(s) to address the prohibition and removal of graffiti (leaving Fixture graffiti to be addressed by Fixture Owners (i.e. utility companies) through the Boulevard By-law);
- Add provision(s) to address the prohibition and removal of snow and ice from areas such as driveways, ramps, parking areas, exterior walkways, exterior stairs, etc.;
- Add provision(s) to address the prohibition and removal of long grass, weeds and waste/debris on abutting boulevards;
- Add provision(s) to address bird feeders on abutting boulevards;
- Include an exemption for boulevard gardens approved by the City per [CS-16-63](#) subject to the conditions outlined by the City; and,
- Delegate authority to the Director, Municipal Law Enforcement and Licensing Services, to rescind a Work Order, as necessary (e.g. [Fence and Sight Triangle By-law 23-2014, as amended](#)).

Additionally, amendments to the Property Standards By-law would be required to remove the existing standards related to the prohibition and removal of snow and ice from areas such as driveways, ramps, parking areas, exterior walkways, exterior stairs, etc. which would now be addressed under the amended Lot Maintenance By-law.

This approach would be:

- Consistent with practices in other municipalities;
- Consistent with approaches in other City by-laws (e.g. [Waste Collection By-law 113-2008, as amended](#) and [Fence and Sight Triangle By-law 23-2014, as amended](#));
- Faster to obtain compliance when Work Orders are issued;
- More straight-forward for members of the public and City staff, by having one (1) by-law to primarily address minor property maintenance issues (instead of having to search through multiple by-laws addressing different aspects of basic property maintenance); and,
- More efficient for staff through the ability to maintain one (1) internal file and issue one (1) Work Order to address all basic property maintenance issues which may take place on both the lot and the boulevard.

The amended Lot Maintenance By-law would continue to be an efficient and effective tool for addressing minor property maintenance issues outside of the timelines required by the Property Standards and Boulevard By-laws.

6.0 Financial Implications

There are no financial implications directly related to the recommendations in this report.

7.0 Relationship to the Oshawa Strategic Plan

The recommendations in this report respond to the Oshawa Strategic Plan Goal of Accountable Leadership.



Phil Lyon, Director,
Municipal Law Enforcement and Licensing Services



Tracy Adams, Commissioner,
Corporate Services Department

Municipal Benchmarking: Property Maintenance By-laws (Excluding Property Standards By-laws)

Municipality	By-law(s)	Application	Examples of Standards Addressed	Appeal Process
Ajax	<ul style="list-style-type: none"> Clean and Clear By-law 36-2017 	Lot	<ul style="list-style-type: none"> Long grass and weeds Waste Standing water 	None
Aurora	<ul style="list-style-type: none"> Clean Communities By-law 	Lot and boulevard	<ul style="list-style-type: none"> Long grass and weeds Graffiti Waste Excavations/ditches Defecation and urination 	None
Clarington	<ul style="list-style-type: none"> Clean and Clear By-law 2019-047 (Lot) Boulevard By-law 2013-066 (Boulevard) 	Lot or Boulevard	<ul style="list-style-type: none"> Clean and Clear: <ul style="list-style-type: none"> Long grass and weeds Waste Standing water Boulevard: <ul style="list-style-type: none"> Long grass and weeds Landscaping and hardscaping standards Driveways Sump pumps 	None
Halton Hills	<ul style="list-style-type: none"> Community Standards By-law 2008-0138 	Lot	<ul style="list-style-type: none"> Unprotected wells/pits/holes Long grass and weeds Noxious weeds Graffiti Waste Dumping Composting Snow and ice 	None

Municipality	By-law(s)	Application	Examples of Standards Addressed	Appeal Process
			<ul style="list-style-type: none"> • Donation boxes • Dust • Odour • Outdoor illumination • Water discharge • Loitering • Street numbering 	
Hamilton	<ul style="list-style-type: none"> • Property Maintenance (Yards) By-law 10-118 	Lot (only waste on boulevard)	<ul style="list-style-type: none"> • Long grass and weeds on lot • Waste on lot and boulevard • Graffiti 	None
Kitchener	<ul style="list-style-type: none"> • Lot Maintenance By-law (<u>Lot</u>) • Boulevard Beautification By-law (Boulevard) 	Lot or Boulevard	<ul style="list-style-type: none"> • Height of plants • Weeds and invasive plants • Obstruction of boulevards/mailboxes • Decorative stone size 	None
London	<ul style="list-style-type: none"> • Yard and Lot Maintenance By-law PW-9 	Lot	<ul style="list-style-type: none"> • Graffiti • Waste • Excavations • Standing water • Dumping • Long grass and weeds 	None
Markham	<ul style="list-style-type: none"> • Keep Markham Beautiful (Maintenance) By-law 	Lot and boulevard	<ul style="list-style-type: none"> • Long grass and weeds • Graffiti, stains, defacement • Waste • Standing water • Inoperable vehicles • Vacant heritage property standards • Street number signs • Snow and ice 	None

Municipality	By-law(s)	Application	Examples of Standards Addressed	Appeal Process
Pickering	<ul style="list-style-type: none"> • Clean and Clear By-law 66832/08 (Lot) • Boulevard Maintenance By-law 6831/08 (Boulevard) 	Lot or Boulevard	<ul style="list-style-type: none"> • Clean and Clear: <ul style="list-style-type: none"> • Long grass and weeds • Waste • Donation boxes • Boulevard: <ul style="list-style-type: none"> • Long grass and weeds • Landscaping/hardscaping standards 	None
Whitby	<ul style="list-style-type: none"> • Boulevard and Property Maintenance By-law 6937-15 	Lot and Boulevard	<ul style="list-style-type: none"> • Long grass and weeds • Waste • Boulevard landscaping and hardscaping standards • Snow and ice • Fixture maintenance 	None